

# Kansas Department of Health and Environment

## Bureau of Disease Control and Prevention

*To improve the quality and longevity of life for the citizens of Kansas by reducing the incidence of death and disability from infectious diseases.*

### Infectious and Reportable Diseases

(Statutes and Regulations under the scope and range of responsibility of the Bureau of  
Disease Control and Prevention-BDCP)

**February 2011**



***To Protect the Health and Environment of All Kansans  
By Promoting Responsible Choices***

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# Table of Contents

## Kansas Disease Control Statutes

<b>General Disease Control</b> . . . . .	1
65-102. Registration of vital statistics and diseases; forms. . . . .	2
65-102b. Confidentiality of information concerning noninfectious diseases; disclosure. . . . .	2
65-118. Reporting to local health authority as to infectious or contagious diseases; persons reporting; immunity from liability; confidentiality of information; disclosure. . . . .	2
65-119. Duties and powers of local health officers; contagious diseases; confidentiality of information; disclosure, when. . . . .	3
65-122. Schools and child care facilities; non-admissions and exclusions; readmissions, when. . . . .	4
65-127. Penalty provision. . . . .	4
65-128. Rules and regulation of secretary for isolation and quarantine; publication; definition. . . . .	4
65-129. Penalties for unlawful acts. . . . .	5
<b>DEPARTMENT OF CORRECTIONS</b> . . . . .	5
75-5224. Contagious disease or catastrophe; removal of inmates. . . . .	5
<b>HIV and AIDS</b> . . . . .	5
65-6002. Reporting to secretary of health and environment information concerning AIDS; information reported, when; persons reporting; immunity from liability; confidentiality of information; disclosure; use of information to discriminate prohibited. . . . .	7
65-6003. Investigation of cases of AIDS or HIV infection; rules and regulations; protection of public health; disclosure of information; confidentiality; agreements with local boards of health authorized. . . . .	8
65-6004. Physician authorized to disclose to certain persons information about patient who has an infectious disease or who has had laboratory confirmation of a positive reaction to an infectious disease test; confidentiality of information; immunity judicial proceedings. . . . .	8
65-6005. Unlawful acts; penalties. . . . .	9
65-6006. Educational material explaining AIDS; distribution to district courts; copies provide to parties applying for marriage license. . . . .	9
65-6007. Establishment and maintenance of sites for anonymous testing for HIV. . . . .	10
65-6008. Infectious disease testing; certain persons in contact with body fluids; hearing; disclosure of test results. . . . .	10
65-6009. Same; persons arrested or convicted; disclosure of test results; costs of counseling and testing. . . . .	11
65-6010. Same; withdrawal of blood; confidentiality of information; penalty. . . . .	12
65-6015. Definitions. . . . .	12
65-6016. Physician authorized to disclose infectious diseases to certain corrections employees; confidentiality; immunity in judicial proceedings. . . . .	13
<b>CRIMES AGAINST PERSONS</b> . . . . .	15
21-3435. Exposing another to a life threatening communicable disease. . . . .	15
<b>KANSAS JUVENILE JUSTICE CODE</b> . . . . .	16
<b>Immunizations</b> . . . . .	18

72-5208. Health tests and inoculations; definitions. . . . .	18
72-5209. Health tests and inoculations; certification of completion required, alternatives; duties of school boards. . . . .	18
72-5211. Same; duties of secretary; forms and certificates; regulations. . . . .	19
72-5211a. Exclusion of pupils from school attendance; adoption of policy; notice; hearing; compulsory attendance law not applicable. . . . .	19
MATERNITY CENTERS AND CHILD CARE FACILITIES . . . . .	20
65-508. Equipment, supplies, accommodations; immunizations. . . . .	20
FAMILY DAY CARE HOMES . . . . .	21
65-519. Certificate of registration; conditions; application for; immunizations; renewal fees. . . . .	21
65-531. Immunization information and records; disclosure. . . . .	22
CHARITABLE HEALTH CARE PROVIDER . . . . .	23
Sexually Transmitted Diseases . . . . .	26
CHILD HYGIENE . . . . .	26
65-153b. Newly born infant; treatment of eyes. . . . .	26
65-153f. Prenatal serological tests for syphilis and hepatitis b; approved laboratories; laboratory reports, confidentiality. . . . .	26
TREATMENT OF MINORS . . . . .	26
65-2892. Examination and treatment of persons under 18 for venereal disease; liability. . . . .	26
Tuberculosis . . . . .	29
65-116a. Definitions. . . . .	29
65-116b. Tuberculosis suspects; order by health officer; scope of examination; care and treatment. . . . .	29
65-116c. Precautions to prevent spread of infection, when; investigations. . . . .	29
65-116d. Failure to do required acts; proceedings by county attorney. . . . .	30
65-116e. Commitment to medical care facility; restraint; discharge, when; recommitment. . . . . .	30
65-116g. Penalty for violations of act or regulations. . . . .	30
65-116h. Preservation of individual rights. . . . .	30
65-116i. Expenses of care, maintenance and treatment; payment from state funds. . . . .	31
65-116j. Care, maintenance and treatment; powers and duties of the secretary of health and environment. . . . .	31
65-116k. Rules and regulations of secretary of social and rehabilitation services; payments for care and treatment. . . . .	31
65-116l. Use of funds for care, maintenance or treatment; limitations. . . . .	32
65-116m. Recovery of cost of care, maintenance or treatment from third parties. . . . .	32
Kansas Disease Control Regulations . . . . .	36
Control . . . . .	37
28-1-1. Definitions. . . . .	37
Disease Reporting . . . . .	39
28-1-2. Designation of infectious or contagious diseases. . . . .	39
28-1-4. Registration of disease prevalence. . . . .	42
28-1-18. Notification of Kansas department of health and environment by laboratories of	

positive reaction to tests for certain diseases. . . . .	43
<b>Immunizations . . . . .</b>	<b>48</b>
<b>LICENSED DAY CARE HOMES AND GROUP DAY CARE HOMES FOR CHILDREN</b>	<b>49</b>
<b>GROUP BOARDING HOMES AND RESIDENTIAL CENTERS FOR CHILDREN AND</b>	
<b>YOUTH . . . . .</b>	<b>51</b>
<b>FAMILY FOSTER HOMES FOR CHILDREN AND YOUTH . . . . .</b>	<b>51</b>
28-4-316. Health care policies. . . . .	51
<b>CHILD CARE CENTERS AND PRESCHOOLS . . . . .</b>	<b>53</b>
<b>Isolation and Quarantine . . . . .</b>	<b>56</b>
28-1-5. General provisions for isolation or quarantine of persons afflicted with infectious	
or contagious disease; examination of persons; collection of specimens. . . . .	56
28-1-12. Release from isolation or quarantine. . . . .	60
<b>Sexually Transmitted Diseases . . . . .</b>	<b>61</b>
<b>MATERNAL AND CHILD HEALTH GENERAL REGULATIONS . . . . .</b>	<b>61</b>
28-4-73. Treatment of eyes of newborn. . . . .	61
<b>Tuberculosis</b>	
<b>MATERNAL AND CHILD HEALTH GENERAL REGULATIONS FOR CATEGORIES</b>	
<b>OF CHILD CARE . . . . .</b>	<b>62</b>
28-4-126. Health of persons 16 years or older in child care facilities. . . . .	62

# **Kansas Disease Control Statutes**

# General Disease Control

## Chapter 65.--PUBLIC HEALTH

### Article 1.--SECRETARY OF HEALTH AND ENVIRONMENT, ACTIVITIES

**65-101. Health supervision; investigation of causes of disease, sickness and death; sanitation inspections; prevention of spread of disease; outreach services; rules and regulations; injunction.**

(a) The secretary of health and environment shall exercise general supervision of the health of the people of the state and may:

(1) Where authorized by any other statute, require reports from appropriate persons relating to the health of the people of the state so a determination of the causes of sickness and death among the people of the state may be made through the use of these reports and other records;

(2) investigate the causes of disease, including especially, epidemics and endemics, the causes of mortality and effects of locality, employments, conditions, food, water supply, habits and other circumstances affecting the health of the people of this state and the causes of sickness and death;

(3) advise other offices and agencies of government concerning location, drainage, water supply, disposal of excreta and heating and ventilation of public buildings;

(4) make sanitary inspection and survey of such places and localities as the secretary deems advisable;

(5) take action to prevent the introduction of infectious or contagious disease into this state and to prevent the spread of infectious or contagious disease within this state;

(6) provide public health outreach services to the people of the state including educational and other activities designed to increase the individual's awareness and appropriate use of public and other preventive health services.

(b) The secretary of health and environment may adopt rules and regulations necessary to carry out the provisions of paragraphs (1) through (6), inclusive, of subsection (a). In addition to other remedies provided by law, the secretary is authorized to apply to the district court, and such court shall have jurisdiction upon a hearing and for cause shown to grant a temporary or permanent injunction to compel compliance with such rules and regulations.

**History:** L. 1885, ch. 129, § 4; L. 1907, ch. 379, § 1; R.S. 1923, 65-101; L. 1974, ch. 352, § 1; L. 1981, ch. 240, § 1; L. 1989, ch. 184, § 1; July 1.

**65-102. Registration of vital statistics and diseases; forms.** The secretary of health and environment shall supervise the registration of marriages, births, and deaths, and also the registration of forms of disease prevalent in the state; and the director of the division of health shall superintend the registration of the vital statistics of the state. The secretary of health and environment shall prepare the blank forms necessary for obtaining and preserving such records, and forward them to the health officers of local boards as may be required by physicians, appraisers, local boards, and others whose duty it is to gather information in relation to the vital statistics of the state.

HISTORY: L. 1885, ch. 129, sec. 5; R.S. 1923, 65-102; L. 1974, ch. 352, sec. 2; L. 1979, ch. 188, sec. 1; July 1.

**65-102b. Confidentiality of information concerning noninfectious diseases; disclosure.** Information concerning noninfectious diseases obtained by the secretary under K.S.A. 65-102 is confidential and shall not be disclosed except as provided in this section. The secretary may disclose information concerning noninfectious diseases obtained under K.S.A. 65-102:

(a) Upon the consent, in writing, of the person who is the subject of the information, or if such person is under 18 years of age, by such person's parent or guardian; or

(b) upon the request of an organization or scholarly investigator for legitimate research or data collection purposes so long as such information is disclosed in a manner which will not reveal the identity of the persons who are the subject of the information.

HISTORY: L. 1982, ch. 252, sec. 1; July 1.

**65-118. Reporting to local health authority as to infectious or contagious diseases; persons reporting; immunity from liability; confidentiality of information; disclosure.**

(a) Whenever any person licensed to practice the healing arts or engaged in a postgraduate training program approved by the state board of healing arts, licensed dentist, licensed professional nurse, licensed practical nurse, administrator of a hospital, licensed adult care home administrator, physician assistant, licensed social worker, teacher or school administrator knows or has information indicating that a person is suffering from or has died from an infectious or contagious disease as defined in rules and regulations, such knowledge or information shall be reported immediately to the county or joint board of health or the local health officer, together with the name and address of the person who has or is suspected of having the infectious or contagious disease, or the name and former address of the deceased individual who had or was suspected of having such a disease. In the case of a licensed hospital or adult care home, the administrator may designate an individual to receive and make such reports. The secretary of health and environment shall, through rules and regulations, make provision for the consolidation of reports required to be made under this section when the person required to make the report is working in a licensed hospital or adult care home. Laboratories certified under the federal clinical laboratories improvement act pursuant to 42 code of federal regulations, 493 shall report the results of microbiologic cultures, examinations, immunologic essays for the presence of antigens and antibodies and any other laboratory tests which are indicative of the presence of a reportable infectious or contagious disease to the department of health and environment. The director of the division of health may use information from death certificates for disease investigation

purposes.

(b) Any person who is an individual member of a class of persons designated under subsection (a) of this section and who reports the information required to be reported under such subsection in good faith and without malice to a county or joint board of health, a local health officer or the department of health and environment shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such report. Any such person shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

(c) Information required to be reported under subsection (a) of this section shall be confidential and shall not be disclosed or made public, upon subpoena or otherwise, beyond the requirements of subsection (a) of this section or subsection (a) of K.S.A. 65-119, except such information may be disclosed:

(1) If no person can be identified in the information to be disclosed and the disclosure is for statistical purposes;

(2) if all persons who are identifiable in the information to be disclosed consent in writing to its disclosure;

(3) if the disclosure is necessary, and only to the extent necessary, to protect the public health;

(4) if a medical emergency exists and the disclosure is to medical personnel qualified to treat infectious or contagious diseases. Any information disclosed pursuant to this paragraph shall be disclosed only to the extent necessary to protect the health or life of a named party; or

(5) if the information to be disclosed is required in a court proceeding involving child abuse and the information is disclosed in camera.

HISTORY: L. 1901, ch. 285, sec. 2; R.S. 1923, 65-118; L. 1953, ch. 283, sec. 1; L. 1976, ch. 262, sec. 1; L. 1979, ch. 189, sec. 1; L. 1998, ch. 35, sec. 1; L. 2000, ch. 162, sec. 17; Feb. 1, 2001.

**65-119. Duties and powers of local health officers; contagious diseases; confidentiality of information; disclosure, when.**

(a) Any county or joint board of health or local health officer having knowledge of any infectious or contagious disease, or of a death from such disease, within their jurisdiction, shall immediately exercise and maintain a supervision over such case or cases during their continuance, seeing that all such cases are properly cared for and that the provisions of this act as to isolation, restriction of communication, quarantine and disinfection are duly enforced. The county or joint board of health or local health officer shall communicate without delay all information as to existing conditions to the secretary of health and environment. The local health officer shall confer personally, if practicable, otherwise by letter, with the person in attendance upon the case, as to its future management and control. The county or joint board of health or local health officer is hereby empowered and authorized to prohibit public gatherings when necessary for the control of any and all



infectious or contagious disease.

(b) Any disclosure or communication of information relating to infectious or contagious diseases required to be disclosed or communicated under subsection (a) of this section shall be confidential and shall not be disclosed or made public beyond the requirements of subsection (a) of this section or subsection (a) of K.S.A. 65-118, except as otherwise permitted by subsection (c) of K.S.A. 65-118.

HISTORY: L. 1901, ch. 285, sec. 3; R.S. 1923, 65-119; L. 1953, ch. 283, sec. 2; L. 1974, ch. 352, sec. 8; L. 1976, ch. 262, sec. 2; L. 1979, ch. 189, sec. 2; July 1.

**65-122. Schools and child care facilities; non-admissions and exclusions; readmissions, when.** No person afflicted with an infectious or contagious disease dangerous to the public health shall be admitted into any public, parochial or private school or licensed child care facility. It shall be the duty of the parent or guardian, and the principal or other person in charge of any public, parochial, private school or licensed child care facility to exclude therefrom any child or other person affected with a disease suspected of being infectious or contagious until the expiration of the prescribed period of isolation or quarantine for the particular infectious or contagious disease. If the attending person licensed to practice medicine and surgery or local health officer finds upon examination that the person affected with a disease, suspected of being infectious or contagious is not suffering from an infectious or contagious disease, he or she may submit a certificate to this effect to the person in charge of the public, parochial, private school or licensed child care facility and such person shall be readmitted to school or to the child care facility.

HISTORY: L. 1901, ch. 285, sec. 6; R.S. 1923, 65-122; L. 1953, ch. 283, sec. 3; L. 1976, ch. 262, sec. 3; July 1.

**65-127. Penalty provision.** Any person found guilty of violating any of the provisions of K.S.A. 65-118, 65-119, 65-122, 65-123 and 65-126, and any amendments thereto, or failing to comply with any requirements thereof shall be fined, upon conviction, not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) for each offense.

HISTORY: L.1901, ch. 285, sec. 11; R.S. 1923, 65-127; L. 1976, ch. 262, sec. 6; July 1.

**65-128. Rules and regulation of secretary for isolation and quarantine; publication; definition.**

(a) For the protection of the public health and for the control of infectious or contagious diseases, the secretary of health and environment by rules and regulations shall designate such diseases as are infectious or contagious in their nature, and the secretary of health and environment is authorized to adopt rules and regulations for the isolation and quarantine of such diseases and persons afflicted with or exposed to such diseases as may be necessary to prevent the spread and dissemination of diseases dangerous to the public health.

(b) As used in K.S.A. 65-118, 65-119, 65-122, 65-123, 65-126 and 65-129, and amendments

thereto, "infectious or contagious disease" means any disease designated by the secretary of health and environment as an infectious or contagious disease in accordance with subsection (a) but the infectious or contagious disease acquired immune deficiency syndrome or any causative agent thereof shall not constitute an infectious or contagious disease for the purposes of K.S.A. 65-118, 65-119, 65-122, 65-123, 65-126 and 65-129, and amendments thereto, because such disease is subject to the provisions of K.S.A. 1988 Supp. 65-6001 through 65-6007 and amendments thereto.

HISTORY: L. 1917, ch. 205, sec. 1; R.S. 1923, 65-128; L. 1953, ch. 283, sec. 6; L. 1965, ch. 506, sec. 25; L. 1974, ch. 352, sec. 11; L. 1976, ch. 262, sec. 7; L. 1988, ch. 232, sec. 9; July 1.

**65-129. Penalties for unlawful acts.** Any person violating, refusing or neglecting to obey any of the rules and regulations adopted by the secretary of health and environment for the prevention, suppression and control of infectious or contagious diseases, or who leaves any isolation area of a hospital or other quarantined area without the consent of the local health officer having jurisdiction, or who evades or breaks quarantine or knowingly conceals a case of infectious or contagious disease shall be guilty of a class C misdemeanor.

HISTORY: L. 1917, ch. 205, § 2; R.S. 1923, 65-129; L. 1974, ch. 352, § 12; L. 1976, ch. 262, § 8; July 1.

## **DEPARTMENT OF CORRECTIONS**

**75-5224. Contagious disease or catastrophe; removal of inmates.** In the case of any contagious disease, natural disaster or catastrophe occurring in any institution under the control of the secretary, the secretary may cause the removal of such inmates as may be necessary to a place of security consistent with their safekeeping until such time as said inmates may safely be returned to such institution.

HISTORY: L. 1973, ch. 339, § 33; July 1, 1974.

## **HIV and AIDS**

### **Article 60.--ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HEPATITIS B; OTHER INFECTIOUS DISEASE**

**65-6001. Definitions.** As used in K.S.A. 65-6001 to 65-6007, inclusive, and K.S.A. 65-6008, 65-6009 and 65-6010, and amendments thereto, unless the context clearly requires otherwise:

- (a) "AIDS" means the disease acquired immune deficiency syndrome.
- (b) "HIV" means the human immunodeficiency virus.

(c) "Laboratory confirmation of HIV infection" means positive test results from a confirmation test approved by the secretary.

(d) "Secretary" means the secretary of health and environment.

(e) "Physician" means any person licensed to practice medicine and surgery.

(f) "Laboratory director" means the person responsible for the professional, administrative, organizational and educational duties of a laboratory.

(g) "HIV infection" means the presence of HIV in the body.

(h) "Racial/ethnic group" shall be designated as either white, black, Hispanic, Asian/Pacific islander or American Indian/Alaskan Native.

(i) "Corrections officer" means an employee of the department of corrections as defined in subsections (f) and (g) of K.S.A. 75-5202, and amendments thereto.

(j) "Emergency services employee" means an attendant or first responder as defined under K.S.A. 65-6112, and amendments thereto, or a firefighter.

(k) "Law enforcement employee" means:

(1) Any police officer or law enforcement officer as defined under K.S.A. 74-5602, and amendments thereto;

(2) any person in the service of a city police department or county sheriff's office who performs law enforcement duties without pay and is considered a reserve officer;

(3) any person employed by a city or county who is in charge of a jail or section of jail, including jail guards and those who conduct searches of persons taken into custody; or

(4) any person employed by a city, county or the state of Kansas who works as a scientist or technician in a forensic laboratory.

(l) "Employing agency or entity" means the agency or entity employing a corrections officer, emergency services employee, law enforcement employee or jailer.

(m) "Infectious disease" means AIDS.

(n) "Infectious disease tests" means tests approved by the secretary for detection of infectious diseases.

(o) "Juvenile correctional facility staff" means an employee of the juvenile justice authority working in a juvenile correctional facility as defined in K.S.A. 2009 Supp. 38-2302, and amendments thereto.

**History:** L. 1988, ch. 232, § 1; L. 1990, ch. 234, § 1; L. 1996, ch. 215, § 1; L. 1998, ch. 187, § 12; L. 1999, ch. 109, § 1; L. 2006, ch. 169, § 119; Jan. 1, 2007.

**65-6002. Reporting to secretary of health and environment information concerning AIDS; information reported, when; persons reporting; immunity from liability; confidentiality of information; disclosure; use of information to discriminate prohibited.**

(a) Whenever any physician has information indicating that a person is suffering from or has died from AIDS, such knowledge or information shall be reported immediately to the secretary, together with the name and address of the person who has AIDS. Any physician or administrator of a medical care facility or such administrator's designee who is in receipt of a report indicating laboratory confirmation of HIV infection resulting from the examination of any specimen provided to a laboratory by such physician or administrator shall report all such information to the secretary. Reports shall be provided within 30 days of testing and shall include the name and address of the person tested, the type of test or tests performed, the date of performance of the test or tests, the results of the test or tests, the sex, date of birth, county of residence and racial/ethnic group of the person tested.

(b) Whenever any laboratory director has information on laboratory confirmation of HIV infection, this information shall be reported to the secretary. Reports shall be provided within 30 days of testing and shall include the type of test or tests, the results of the test or tests, dates of performance of the test or tests, the name of the physician or facility requesting the test or tests, and any identifying information about the person tested as the laboratory director has access to, such as the name and address of the person tested, the sex, date of birth, county of residence and racial/ethnic group, exposure category and pregnancy status of the person tested.

(c) Any physician, administrator of a medical care facility or such administrator's designee or laboratory director who reports the information required to be reported under subsection (a) or (b) in good faith and without malice to the secretary shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such report. Any such physician, administrator or designee or laboratory director shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

(d) Information required to be reported under subsection (a) or (b) and information obtained through laboratory tests conducted by the department of health and environment relating to HIV or AIDS and persons suffering therefrom or infected therewith shall be confidential and shall not be disclosed or made public, upon subpoena or otherwise, beyond the disclosure necessary under subsection (a) or (b) or under subsection (a) of K.S.A. 65-6003 and amendments thereto or the usual reporting of laboratory test results to persons specifically designated by the secretary as authorized to obtain such information, except such information may be disclosed:

(1) If no person can be identified in the information to be disclosed and the disclosure is for statistical purposes;

(2) if all persons who are identifiable in the information to be disclosed consent in writing to its disclosure;

(3) if the disclosure is necessary, and only to the extent necessary, as specified by rules and regulations of the secretary, to protect the public health;

(4) if a medical emergency exists and the disclosure is to medical personnel qualified to treat AIDS or HIV infection, except that any information disclosed pursuant to this paragraph shall be disclosed only to the extent necessary to protect the health or life of a named party; or

(5) if the information to be disclosed is required in a court proceeding involving a minor and the information is disclosed in camera.

(e) Information regarding cases of AIDS or HIV infection reported in accordance with this section shall be used only as authorized under this act. Such information shall not be used in any form or manner which would lead to the discrimination against any individual or group with regard to employment, to provision of medical care or acceptance into any facilities or institutions for medical care, housing, education, transportation, or for the provision of any other goods or services.

HISTORY: L. 1988, ch. 232, sec. 2; L. 1990, ch. 234, sec. 2; L. 1997, ch. 8, sec. 14; L. 1999, ch. 109, sec. 2; L. 2001, ch. 58, sec. 1; July 1.

**65-6003. Investigation of cases of AIDS or HIV infection; rules and regulations; protection of public health; disclosure of information; confidentiality; agreements with local boards of health authorized.**

(a) The secretary shall investigate cases of persons who have HIV infection or AIDS and monitor such cases during their continuance. The secretary may adopt and enforce rules and regulations for the prevention and control of HIV infection or AIDS as may be necessary to protect the public health. The secretary shall adopt rules and regulations for maintaining confidentiality of information under this act which at a minimum are as strict as the centers for disease control and prevention guidelines.

(b) Any information relating to person who have AIDS which is required to be disclosed or communicated under subsection (a) shall be confidential and shall not be disclosed or made public beyond the disclosure necessary under subsection (a) or under subsection (a) of K.S.A. 65-6002 and amendments thereto to persons specifically designated by the secretary as authorized to obtain such information, except as otherwise permitted by subsection (d) of K.S.A. 65-6002 and amendments thereto.

(c) The secretary may enter into agreements with any county or joint board of health to perform duties required to be performed by the secretary under subsection (a) as specified by such agreement. The confidentiality requirements of subsection (b) shall apply to any duties performed pursuant to such an agreement.

HISTORY: L. 1988, ch. 232, sec. 3; L. 1999, ch. 109, sec. 3; July 1.

**65-6004. Physician authorized to disclose to certain persons information about patient who has an infectious disease or who has had laboratory confirmation of a positive reaction to an infectious disease test; confidentiality of information; immunity in judicial proceedings.**

(a) Notwithstanding any other law to the contrary, a physician performing medical or surgical procedures on a patient who the physician knows has an infectious disease or has had laboratory confirmation of a positive reaction to an infectious disease test may disclose such information to other health care providers, emergency services employees, corrections officers or law enforcement employees who have been or will be placed in contact with bodily fluids of such patient. The information shall be confidential and shall not be disclosed by such health care providers, emergency services employees, corrections officers or law enforcement employees except as may be necessary in providing treatment for such patient.

(b) Notwithstanding any other law to the contrary, a physician who has reason to believe that the spouse or partner of a person who has had laboratory confirmation of HIV infection or who has AIDS may have been exposed to HIV and is unaware of such exposure may inform the spouse or partner of the risk of exposure. The information shall be confidential and shall not be disclosed by such spouse or partner to other persons except to the spouse or partner who has had laboratory confirmation of HIV infection or who has AIDS.

(c) Nothing in this section shall be construed to create a duty to warn any person of possible exposure to HIV.

(d) Any physician who discloses or fails to disclose information in accordance with the provisions of this section in good faith and without malice shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such disclosure. Any such physician shall have the same immunity with respect to participation in any judicial proceedings resulting from such disclosure.

HISTORY: L. 1988, ch. 232, sec. 4; L. 1990, ch. 234, sec. 3; L. 1993, ch. 221, sec. 1; L. 1996, ch. 215, sec. 2; L. 1999, ch. 109, sec. 4; July 1.

**65-6005. Unlawful acts; penalties.** Except as otherwise provided in this section, any person violating, refusing or neglecting to obey any provision of K.S.A. 65-6001 through 65-6004, and amendments thereto, or of the rules and regulations adopted by the secretary for the prevention and control of HIV infection or AIDS shall be guilty of a class C misdemeanor. Any person who discloses information which is made confidential and prohibited from disclosure under K.S.A. 65-6002 through 65-6004, and amendments thereto, shall be guilty of a misdemeanor punishable by a fine of not less than \$500 nor more than \$1,000 and by imprisonment in the county jail for not more than six months.

HISTORY: L. 1988, ch. 232, sec. 5; L. 1999, ch. 109, sec. 5; July 1.

**65-6006. Educational material explaining AIDS; distribution to district courts; copies provide to parties applying for marriage license.** The secretary shall prepare for distribution to the district courts of the state educational material explaining the nature, causes and effects of AIDS and other information relating to AIDS as may be appropriate. The clerks of the district courts or judges thereof, when applied to for a marriage license, shall provide copies of such educational material to the

parties to the proposed marriage.

HISTORY: L. 1988, ch. 232, 6; July 1.

**65-6007. Establishment and maintenance of sites for anonymous testing for HIV.** The secretary shall establish and maintain test sites throughout the state where testing for HIV may be undertaken including anonymous testing. The secretary shall establish test sites throughout the state so that an anonymous test site is available within 100 miles of any resident of the state.

HISTORY: L. 1988, ch. 232, sec. 7; L. 1999, ch. 109, sec. 6; July 1.

**65-6008. Infectious disease testing; certain persons in contact with body fluids; hearing; disclosure of test results.**

(a) If a corrections officer, emergency services employee, law enforcement employee or juvenile correctional facility staff comes into contact with or otherwise is exposed to transmission of body fluids from one or more other persons while performing duties within the scope of such employee's duties as an employee, the head of the employing agency or entity may make application to a court of competent jurisdiction for an order requiring such other person or persons to submit to infectious disease tests.

(b) Such application shall include an allegation that the person or persons sought to be tested have been requested to submit voluntarily to infectious disease tests and have refused the tests. When any such application is received, the court shall hold a hearing forthwith and shall issue its order thereon immediately if the court finds that:

(1) There is probable cause to believe that the employee involved has come in contact with or otherwise has been exposed to transmission of the body fluids of the person or persons sought to be tested; and

(2) the person or persons sought to be tested have been requested to submit to tests and have refused, unless the court makes a further finding that exigent circumstances exist which, in the court's judgment, would excuse the applicant from making such a request.

(c) If an infectious disease test ordered pursuant to this section results in a negative reaction, the court shall order the person tested to submit to another infectious disease test six months from the date the first test was administered.

(d) The results of any infectious disease test ordered pursuant to this section shall be disclosed to the court which ordered the test, the employee, and the person tested. If an infectious disease test ordered pursuant to this section results in a positive reaction, the results shall be reported to the employee.

HISTORY: L. 1996, ch. 215, sec. 3; L. 1998, ch. 187, sec. 13; July 1.

**65-6009. Same; persons arrested or convicted; disclosure of test results; costs of counseling and testing.**

(a) At the time of an appearance before a magistrate under K.S.A. 22-2901 and amendments thereto, the magistrate shall inform any person arrested and charged with a crime in which it appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved of the availability of infectious disease tests and shall cause the alleged victim of such a crime, if any, to be notified that infectious disease tests and counseling are available. If the victim of the crime or the county or district attorney requests the court to order infectious disease tests of the alleged offender or if the person arrested and charged with a crime stated to the law enforcement officer making such arrest that the person arrested and charged with the crime has an infectious disease or is infected with an infectious disease, or used words of like effect, the court shall order the arrested person to submit to infectious disease tests. The results of any test obtained under this section shall be inadmissible in any criminal or civil proceeding.

(b) Upon conviction of a person for any crime which the court determines from the facts of the case involved or was likely to have involved the transmission of body fluids from one person to another, the court:

(1) May order the convicted person to submit to infectious disease tests; or

(2) shall order the convicted person to submit to infectious disease tests if the victim of the crime or the parent or legal guardian of the victim, if the victim is a minor, requests the court to issue such order. If infectious disease tests are ordered under this subsection, the victim of the crime, if any, who is not a minor, shall designate a health care provider or counselor to receive such information on behalf of the victim. If the victim is a minor, the parent or legal guardian of the victim shall designate the health care provider or counselor to receive such information.

(c) The results of any infectious disease test ordered under subsection (a) shall be disclosed to the law enforcement officer making such arrest, the person arrested and such other persons as the court determines have a legitimate need to know the test result in order to provide for their protection. The results of any infectious disease test ordered under subsection (b) shall be disclosed to the court which ordered the test, the convicted person and to the person designated under subsection (b) by the victim or victims of the crime or by the parent or legal guardian of a victim if the victim is a minor. If an infectious disease test ordered under this section results in a positive reaction, the results shall be reported to the secretary of health and environment and to the secretary of corrections.

(d) As used in this section, infectious disease includes HIV and hepatitis B.

(e) The costs of any counseling and testing provided under this section shall be paid from amounts appropriated to the department of health and environment for that purpose. The court shall order the adjudicated person to pay restitution to the department of health and environment for the costs of any counseling provided under this section and the costs of any test ordered or otherwise performed



under this section.

HISTORY: L. 1996, ch. 215, § 4; L. 2001, ch. 102, § 5; July 1.

**65-6010. Same; withdrawal of blood; confidentiality of information; penalty.**

(a) When a court orders a person to submit to infectious disease tests under this act, the withdrawal of the blood may be performed only by:

(1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person;

(2) a licensed professional nurse or a licensed practical nurse; or

(3) a qualified medical technician. No person authorized by this subsection to withdraw blood, no person assisting in the performance of the infectious disease tests nor any medical care facility where blood is withdrawn or tested that has been ordered by the court to withdraw or test blood shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices.

(b) The results of tests or reports, or information therein, obtained under this act shall be confidential and shall not be divulged to any person not authorized by this act to receive the same. Any violation of this subsection is a class C nonperson misdemeanor.

HISTORY: L. 1996, ch. 215, § 5; July 1.

**65-6015. Definitions.** As used in K.S.A. 2001 Supp. 65-6015 through 65-6017, and amendments thereto:

(a) "Body fluid" means blood, amniotic fluid, pericardial fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen or vaginal secretions, or any body fluid visibly contaminated with blood.

(b) "Corrections employee" means an employee of the department of corrections or an employee of a contractor who is under contract to provide services in a correctional institution.

(c) "Offender" means a person in the legal custody of the secretary of corrections.

(d) "Physician" means any person licensed to practice medicine and surgery.

(e) "Infectious disease" means any disease communicable from one person to another through contact with bodily fluids.

HISTORY: L. 1993, ch. 221, § 2; L. 2001, ch. 102, § 1; July 1.

**65-6011. Report to legislature.** On or before January 8, 2001, and annually thereafter, the secretary of health and environment shall report to the legislature concerning the impact of the changes made to K.S.A. 65-6001 through 65-6007, and amendments thereto.

HISTORY: L. 1999, ch. 109, § 7; L. 2001, ch. 58, § 2; July 1.

**65-6016. Physician authorized to disclose infectious diseases to certain corrections employees; confidentiality; immunity in judicial proceedings.**

(a) Notwithstanding any other law to the contrary, a physician performing medical or surgical procedures on a patient who the physician knows has an infectious disease or has had a positive reaction to an infectious disease test may disclose such information to corrections employees who have been or will be placed in contact with body fluid of such patient. The information shall be confidential and shall not be disclosed by corrections employees except as may be necessary in providing treatment for such patient. Any other disclosure of such information by a corrections employee is a class C misdemeanor.

(b) Nothing in this section shall be construed to create a duty to warn any person of possible exposure to an infectious disease.

(c) Any physician who discloses information in accordance with the provisions of this section in good faith and without malice shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such disclosure. Any such physician shall have the same immunity with respect to participation in any judicial proceeding resulting from such disclosure.

HISTORY: L. 1993, ch. 221, § 3; L. 2001, ch. 102, § 2; July 1.

**65-6017. Court ordered testing of certain offenders in custody of secretary of corrections or commissioner of juvenile justice authority.**

(a) If a corrections employee has been placed in contact with body fluid from one or more offenders while performing duties within the scope of such employee's duties as a corrections employee, the secretary of corrections or the secretary's designee or the commissioner of the juvenile justice authority or the commissioner's designee upon consultation with a medical care provider may make application to the district court of the county where the offender or offenders are in custody for an order requiring such offender or offenders to submit to tests for infectious diseases. Such application shall include an allegation that the offender or offenders sought to be tested have been requested to voluntarily submit to tests for a specific infectious disease or diseases and have refused the tests and that the corrections employee has agreed to voluntarily testing for the same infectious disease, including appropriate follow-up testing. When any such application is received, the court shall hold a hearing forthwith and shall issue its order thereon immediately if the court finds that: (1)

There is probable cause to believe that the employee involved has been placed in contact with body fluid of the offender or offenders sought to be tested; and (2) the offender or offenders sought to be tested have been requested to submit to the tests and have refused, unless the court makes a further finding that exigent circumstances exist that would, in the court's judgment, excuse the applicant from making such a request. Expenses of the testing shall be assessed as a cost of the proceeding.

(b) If a test for an infectious disease ordered pursuant to this section results in a negative reaction, the court, upon proper application, shall order the offender tested to submit to another test six months after the date the first test was administered.

(c) If a test is ordered pursuant to this section, the corrections employee shall designate a health care provider or counselor to receive the test results on behalf of the corrections employee. The results of the test shall be disclosed to the court that ordered the test, the person tested and the health care provider or counselor designated by the corrections employee. The results shall also be disclosed to the secretary of corrections or the commissioner of the juvenile justice authority for inclusion in the offender's medical records. Test results of the corrections employee shall not be disclosed except as specifically authorized in writing by the employee.

(d) When a court orders an offender to submit to tests under this section which require withdrawal of blood, the withdrawal of the blood may be performed only by: (1) A physician or a person acting under the supervision of a physician; (2) a licensed professional nurse or a licensed practical nurse; or (3) a qualified medical technician. No person authorized by this subsection to withdraw blood, no person assisting in the performance of the tests nor any medical care facility where blood is withdrawn or tested that has been ordered by the court to withdraw or test blood shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices.

(e) The results of tests or reports, or information therein, obtained under this section shall be confidential and shall not be divulged to any person not authorized by law to receive such results, reports or information. Any violation of this subsection is a class C misdemeanor.

**History:** L. 1993, ch. 221, § 4; L. 2001, ch. 102, § 3; L. 2005, ch. 40, § 2; July 1.

#### **SB62 Perinatal Testing Statute (2010)**

(a) A physician or other health care professional who is otherwise authorized by law to provide medical treatment to a pregnant woman shall take or cause to be taken, during the first trimester of pregnancy, a routine opt-out screening for HIV infection. When the physician or other health care professional determines certain pregnant women to be at high risk for acquiring HIV infection, such women shall be administered a repeat screening during the third trimester or at the time of labor and delivery. When a pregnant woman's HIV status is unknown for any reason at the time of labor and delivery, such woman shall be screened for HIV infection as soon as possible within medical standards. When an HIV rapid test kit is used for screening, a confirmatory sample shall be submitted for serological testing which meets the standards recognized by the United States public health service for the detection of HIV to a laboratory approved by the secretary of health and environment for such serological tests. A pregnant woman shall have the right to refuse screening under this subsection at any time. Before any screening is performed under this subsection, the pregnant woman shall be informed in writing of the provisions of this subsection and the purposes and benefits of the screening, and the pregnant woman shall sign a form provided by the department of health and

environment to authorize or opt-out of the screening. The form shall contain the following wording: “I test all of my pregnant patients for HIV as part of the panel of routine tests to alert me to any conditions that can have a very serious effect on your pregnancy and your baby. You will be tested for HIV unless you tell me not to.”

(b) When the mother’s HIV status is unknown because of refusal to take such screening during the pregnancy or any other reasons, such mother’s newborn child shall be screened with an HIV test as soon as possible within medical standards to determine if prophylaxis is needed. A mother’s or a guardian’s consent is not required to screen such newborn child, except that this subsection shall not apply to any newborn child whose parents object to the test as being in conflict with their religious tenets and practices. Documentation of a mother’s HIV status shall be recorded in both the mother’s and newborn’s medical records. The mother of the child shall be informed in writing of the provisions of this subsection and of the purposes and benefits of the screening and shall sign a form stating that the mother has received the information.

(c) The secretary of health and environment is hereby authorized to adopt rules and regulations, within six months from the effective date of this section, establishing guidelines for routine HIV infection screening for pregnant women and each newborn child where the HIV status of the mother is unknown at the time of birth. These rules and regulations shall be based on the recommendations and best practices established by the United States centers for disease control and prevention and public health service task force recommendations for use of antiretroviral drugs in pregnant HIV infected women for maternal health and interventions to reduce perinatal HIV transmission in the United States.

(d) As used in this section, physician, HIV and HIV infection have the meanings defined in K.S.A. 65-6001, and amendment thereto.

(e) This section shall be effective on and after July 1, 2010.

## **CRIMES AGAINST PERSONS**

### **21-3435. Exposing another to a life threatening communicable disease.**

(a) It is unlawful for an individual who knows oneself to be infected with a life threatening communicable disease knowingly:

(1) To engage in sexual intercourse or sodomy with another individual with the intent to expose that individual to that life threatening communicable disease;

(2) to sell or donate one's own blood, blood products, semen, tissue, organs or other body fluids with the intent to expose the recipient to a life threatening communicable disease;

(3) to share with another individual a hypodermic needle, syringe, or both, for the introduction of drugs or any other substance into, or for the withdrawal of blood or body fluids from, the other individual's body with the intent to expose another person to a life threatening communicable disease.

(b) As used in this section, the term "sexual intercourse" shall not include penetration by any object other than the male sex organ; the term "sodomy" shall not include the penetration of the anal opening by any object other than the male sex organ.

(c) Violation of this section is a severity level 7, person felony..

HISTORY: L. 1992, ch. 289, sec. 7; L. 1993, ch. 291, sec. 45; L. 1999, ch. 164, sec. 7; July 1.

## **KANSAS JUVENILE JUSTICE CODE**

### **38-2317. Infectious disease testing and counseling; disclosure of results; penalties.**

(a) As used in this section:

(1) "Adjudicated person" means a person found to be a juvenile offender or a person found not to be a juvenile offender because of mental disease or defect.

(2) "Laboratory confirmation" means positive test results from a confirmation test approved by the secretary of health and environment.

(3) "Sexual act" means contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva or the mouth and the anus. For purposes of this definition contact involving the penis occurs upon penetration, however slight.

(4) "Infectious disease test" means a test approved by the secretary of health and environment.

(5) "Body fluids" means blood, semen or vaginal secretions or any body fluid visibly contaminated with blood.

(6) "Infectious disease" means any disease communicable from one person to another through contact with bodily fluids.

(b) At the time of the first appearance before the court of a person charged with an offense involving a sexual act committed while the person was a juvenile, or in which it appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved, the judge shall inform the person or the parent or legal guardian of the person of the availability of infectious disease testing and counseling and shall cause each alleged victim of the offense and if the alleged victim is a minor, the parent, if any, to be notified that infectious disease testing and counseling are available.

(c) If the victim of the offense or if the victim is a minor, if the victim's parent requests the court to order infectious disease tests of the alleged offender or if the person charged with the offense stated to law enforcement officers that such person has an infectious disease or is infected with an infectious disease, or used words of like effect, the court shall order the person charged with the offense to submit to infectious disease tests.

(d) For any offense by an adjudicated person which the court determines, from the facts of the case, involved or was likely to have involved the transmission of body fluids from one person to

another or involved a sexual act, the court: (1) May order the adjudicated person to submit to infectious disease tests; or (2) shall order the adjudicated person to submit to infectious disease tests if a victim of the offense, or the parent or legal guardian of the victim if the victim is a minor, requests the court to make such order. If an infectious disease test is ordered under this subsection, a victim who is an adult shall designate a health care provider or counselor to receive the information on behalf of the victim. If a victim is a minor, the parent or legal guardian of the victim shall designate the health care provider or counselor to receive the information. If testing for HIV or hepatitis B infection results in a negative reaction, the court shall order the adjudicated person to submit to another test for HIV or hepatitis B infection six months after the first test was administered.

(e) The results of infectious disease tests ordered under this section shall be disclosed to the court which ordered the test, to the adjudicated person, or the parent or legal guardian of the adjudicated person, and to each person designated under subsection (d) by a victim or by the parent or legal guardian of a victim. If infectious disease tests ordered under this section results in a laboratory confirmation, the results shall be reported to the secretary of health and environment and to: (1) The commissioner of juvenile justice, in the case of a juvenile offender or a person not adjudicated because of mental disease or defect, for inclusion in such offender's or person's medical file; or (2) the secretary of corrections, in the case of a person under 16 years of age who has been convicted as an adult, for inclusion in such person's medical file. The secretary of health and environment shall provide to each victim of the crime or sexual act, at the option of such victim, counseling regarding the human immunodeficiency virus and hepatitis B, testing for HIV or hepatitis B infection in accordance with K.S.A. 65-6001 et seq., and amendments thereto, and referral for appropriate health care and services.

(f) The costs of any counseling and testing provided under subsection (e) by the secretary of health and environment shall be paid from amounts appropriated to the department of health and environment for that purpose. The court shall order the adjudicated person to pay restitution to the department of health and environment for the costs of any counseling provided under this section and the costs of any test ordered or otherwise performed under this section.

(g) When a court orders an adjudicated person to submit to infectious disease tests under this section, the withdrawal of the blood may be performed only by: (1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person; (2) a licensed professional nurse or a licensed practical nurse; or (3) a qualified medical technician. No person authorized by this subsection to withdraw blood, no person assisting in the performance of infectious disease tests nor any medical care facility where blood is withdrawn or tested that has been ordered by the court to withdraw or test blood shall be liable in any civil or criminal action when the test is performed in a reasonable manner according to generally accepted medical practices.

(h) The results of tests or reports, or information therein, obtained under this section shall be confidential and shall not be divulged to any person not authorized by this section or authorized in writing by the juvenile to receive the results or information. Any violation of this section is a class C nonperson misdemeanor.

**History:** L. 2006, ch. 169, § 17; L. 2008, ch. 169, § 21; July 1.

# Immunizations

## **72-5208. Health tests and inoculations; definitions.** As used in this act:

- (a) "School Board" means the board of education of a school district and the governing authority of any nonpublic school;
- (b) "school" means all elementary, junior high or high schools within the state;
- (c) "local health department" means any county or joint board of health established under the laws of Kansas and having jurisdiction over the place where any pupil affected by this act may reside;
- (d) "secretary" means the secretary of the state department of health and environment;
- (e) "physician" means a person licensed to practice medicine and surgery.

HISTORY: L. 1961, ch. 354, sec. 1; L. 1978, ch. 291, sec. 1; July 1.

## **72-5209. Health tests and inoculations; certification of completion required, alternatives; duties of school boards.**

(a) In each school year, every pupil enrolling or enrolled in any school for the first time in this state, and each child enrolling or enrolled for the first time in a preschool or day care program operated by a school, and such other pupils as may be designated by the secretary, prior to admission to and attendance in school, shall present to the appropriate school board certification from a physician or local health department that the pupil has received such tests and inoculations as are deemed necessary by the secretary by such means as are approved by the secretary. Pupils who have not completed the required inoculations may enroll or remain enrolled while completing the required inoculations if a physician or local health department certifies that the pupil has received the most recent appropriate inoculations in all required series. Failure to timely complete all required series shall be deemed non-compliance.

(b) As an alternative to the certification required under subsection (a), a pupil shall present:

(1) An annual written statement signed by a licensed physician stating the physical condition of the child to be such that the tests or inoculations would seriously endanger the life or health of the child, or

(2) a written statement signed by one parent or guardian that the child is an adherent of a religious denomination whose religious teachings are opposed to such tests or inoculations.

(c) On or before May 15 of each school year, the school board of every school affected by this act shall notify the parents or guardians of all known pupils who are enrolled or who will be enrolling in

the school of the provisions of this act and any policy regarding the implementation of the provisions of this act adopted by the school board.

(d) If a pupil transfers from one school to another, the school from which the pupil transfers shall forward with the pupil's transcript the certification or statement showing evidence of compliance with the requirements of this act to the school to which the pupil transfers.

**HISTORY:** L. 1961 ch. 354, sec. 2; L. 1965, ch. 412, sec. 1; L. 1970, ch. 293, sec. 1; L. 1975, ch. 462, sec. 107; L. 1978, ch 291, sec. 2; L. 1981, ch. 285, sec. 1; L. 1993, ch. 89, sec. 1; L. 1994, ch. 206, sec. 1; July 1.

**72-5210. Same; duties of public health departments and officers; fees, exception to payment.** A county, city-county or multicounty health department shall provide without delay and to the extent that funds designated by such health department for the purchase of vaccines are available the tests and inoculations required by this act to such pupils as are not provided therewith by their parents or guardians and who have not been exempted on religious or medical grounds. Such tests and inoculations may be provided on a sliding fee scale for administrative charges with the exception that no child may be denied inoculations for inability to pay an administrative fee. The local health officer shall counsel and advise school boards concerning the administration of this act.

**History:** L. 1961, ch. 354, § 3; L. 1965, ch. 412, § 2; L. 1978, ch. 291, § 3; L. 1980, ch. 182, § 30; L. 1994, ch. 206, § 2; L. 2002, ch. 12, § 1; July 1.

**72-5211. Same; duties of secretary; forms and certificates; regulations.** The secretary shall prescribe the content of forms and certificates to be used by the school boards in carrying out this act and shall provide, without cost to the school boards, sufficient copies of this act for distribution to pupils. Schools shall utilize the reporting form adopted by the secretary for documentation of all immunizations. Audit information shall be obtained from this adopted form. The secretary may adopt such regulations as are necessary to carry out the provisions of this act.

**HISTORY:** L. 1961, ch. 354, sec. 4; L. 1975, ch. 462, sec. 108; L. 1978, ch. 291, sec. 4; L. 1994, ch 206, sec. 3; July 1.

**72-5211a. Exclusion of pupils from school attendance; adoption of policy; notice; hearing; compulsory attendance law not applicable.**

(a) The school board of every school affected by this act may exclude from school attendance, or by policy adopted by any such school board, authorize any certificated employee or committee of certificated employees to exclude from school attendance, any pupil who has not complied with the requirements of K.S.A. 72-5209. A pupil shall be subject to exclusion from school attendance under this section until such time as the pupil shall have complied with the requirements of K.S.A. 72-5209. The policy shall include provisions for written notice to be given to the parent or guardian of the involved pupil. The notice shall (1) indicate the reason for the exclusion from school attendance, (2) state that the pupil shall continue to be excluded until the pupil has complied with the requirements of K.S.A. 72-5209, and (3) inform the parent or guardian that a hearing thereon shall be afforded the parent or



guardian upon request therefor.

(b) The provisions of K.S.A. 72-1111 do not apply to any pupil while subject to exclusion from school attendance under the provisions of this section.

HISTORY: L. 1978, ch. 291, sec. 5; L. 1981, ch. 285, sec. 2; July 1.

## **MATERNITY CENTERS AND CHILD CARE FACILITIES**

### **65-508. Equipment, supplies, accommodations; immunizations.**

(a) Any maternity center or child care facility subject to the provisions of this act shall: (1) Be properly heated, plumbed, lighted and ventilated; (2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and (3) be operated with strict regard to the health, comfort, safety and social welfare of the residents.

(b) Every maternity center or child care facility shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.

(c) The secretary of health and environment with the cooperation of the secretary of social and rehabilitation services shall develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to promote the health, safety and welfare of the residents who are to be served in such facilities by ensuring safe and adequate physical surroundings, healthful food, supervision and care of the residents by capable, qualified persons of sufficient number, an adequate program of activities and services and such appropriate parental participation as may be feasible under the circumstances. Boarding schools are excluded from requirements regarding the number of qualified persons who must supervise and provide care to residents.

(d) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.

(e) The immunizations requirement of subsection (d) shall not apply if one of the following is obtained:

(1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

HISTORY: L. 1919, ch. 210, sec. 8; R.S. 1923, 65-508; L. 1951, ch. 358, sec. 4; L. 1974, ch. 352, sec. 90; L. 1978, ch 236, sec. 7; L. 1992, ch. 55, sec. 2; L. 1994, ch. 279, sec. 11; L. 1995, ch. 183, sec. 9; L. 1998, ch. 166, sec. 2; July 1.

## **FAMILY DAY CARE HOMES**

**65-519. Certificate of registration; conditions; application for; immunizations; renewal fees.**

(a) The secretary shall issue a certificate of registration to any person who: (1) Applies for registration on forms furnished by the secretary; (2) attests to the safety of the family day care home for the care of children; (3) submits a fee not to exceed \$15 as established by rules and regulations of the secretary of health and environment payable to the secretary of health and environment; and (4) certifies that no person described in subsection (a)(1), (2), (3), (4), (5) or (6) of K.S.A. 65-516 and amendments thereto resides, works or volunteers in the family day care home. The fee in effect under this subsection (a) immediately prior to the effective date of this act shall continue in effect on and after the effective date of this act until a different fee is established by the secretary of health and environment by rules and regulations under this subsection.

(b) The secretary shall furnish each applicant for registration a family day care home safety evaluation form to be completed by the applicant and submitted with the registration application.

(c) (1) Each child cared for in a family day care home, including children of the person maintaining the home, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a family day care home shall maintain a record of each child's immunizations, and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a family day care home shall not have such person's certificate of registration revoked solely for the failure to have or to maintain the immunization records required by this subsection.

(2) The immunization requirement of subsection (c) (1) shall not apply if one of the following is obtained;

(A) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(B) a written statement signed by a parent or guardian that the parent of guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

(d) The secretary of health and environment shall provide to each person maintaining a registered family day care home a list of the requirements for registration of family day care homes.

The person maintaining a family day care home shall provide a copy of such list to the parent or guardian of each child cared for in such home and shall maintain on the premises a copy of the list which had been signed and dated by the parent or guardian.

(e) The certificate of registration shall be renewed annually in the same manner provided for in this section.

(f) The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the state general fund.

HISTORY: L. 1980, ch. 184, sec. 5; L. 1982, ch. 259, sec. 3; L. 1983, ch. 140, sec. 47; L. 1984, ch. 225, sec. 2; L. 1986, ch. 230, sec. 3; L. 1992, ch. 55, sec. 1; L. 1994, ch. 279, sec. 18; L. 1995, ch. 183, sec. 10; L. 2001, Ch. 5, sec. 218; July 1.

**65-531. Immunization information and records; disclosure.** On and after July 1, 1996:

(a) Except as provided further, information and records which pertain to the immunization status of persons against childhood disease as required by K.S.A. 65-508 and 65-519, and amendments thereto, may be disclosed and exchanged without a parent or guardian's written release authorizing such disclosure, to the following, who need to know such information to assure compliance with state statutes or to achieve age appropriate immunization status for children:

(1) Employees of public health agencies or departments;

(2) health records staff of child care facilities and family day care homes, including, but not limited to, facilities licensed by the secretary of health and environment;

(3) persons other than public employees who are entrusted with the regular care of those under the care and custody of a state agency including, but not limited to, operators of day care facilities, group homes, residential care facilities and adoptive or foster homes; and

(4) health care professionals.

(b) Notwithstanding K.S.A. 60-427 and amendments thereto or any other Kansas statute which provides for privileged information between a patient and a health care provider, there shall be no privilege preventing the furnishing of information and records as authorized by this section by any health care provider.

(c) Information and records which pertain to the immunization status of persons against childhood diseases as required by K.S.A. 65-508 and K.S.A. 65-519, and amendments thereto, whose parent or guardian has submitted a written statement of religious objection to immunization as provided

in K.S.A. 65-508 or 65-519, and amendments thereto, may not be disclosed or exchanged without a parent or guardian's written release authorizing such disclosure.

HISTORY: L. 1996, ch. 229, sec. 156; July 1.

### **CHARITABLE HEALTH CARE PROVIDER**

**75-6102. Definitions.** As used in K.S.A. 75-6101 through 75-6118, and amendments thereto, unless the context clearly requires otherwise:

(a) "State" means the state of Kansas and any department or branch of state government, or any agency, authority, institution or other instrumentality thereof.

(b) "Municipality" means any county, township, city, school district or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof.

(c) "Governmental entity" means state or municipality.

(d) (1) "Employee" means: (A) Any officer, employee, servant or member of a board, commission, committee, division, department, branch or council of a governmental entity, including elected or appointed officials and persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation and a charitable health care provider;

(B) any steward or racing judge appointed pursuant to K.S.A. 74-8818, and amendments thereto, regardless of whether the services of such steward or racing judge are rendered pursuant to contract as an independent contractor;

(C) employees of the United States marshal's service engaged in the transportation of inmates on behalf of the secretary of corrections;

(D) a person who is an employee of a nonprofit independent contractor, other than a municipality, under contract to provide educational or vocational training to inmates in the custody of the secretary of corrections and who is engaged in providing such service in an institution under the control of the secretary of corrections provided that such employee does not otherwise have coverage for such acts and omissions within the scope of their employment through a liability insurance contract of such independent contractor;

(E) a person who is an employee or volunteer of a nonprofit program, other than a municipality, who has contracted with the commissioner of juvenile justice or with another nonprofit program that has contracted with the commissioner of juvenile justice to provide a juvenile justice program for juvenile offenders in a judicial district provided that such employee or volunteer does not otherwise have coverage for such acts and omissions within the scope of their employment or volunteer activities through a liability insurance contract of such nonprofit program;

(F) a person who contracts with the Kansas guardianship program to provide services as a court-appointed guardian or conservator;

(G) an employee of an indigent health care clinic;

(H) former employees for acts and omissions within the scope of their employment during their former employment with the governmental entity;

(I) any member of a regional medical emergency response team, created under the provisions of K.S.A. 48-928, and amendments thereto, in connection with authorized training or upon activation for an emergency response; and

(J) medical students enrolled at the university of Kansas medical center who are in clinical training, on or after July 1, 2008, at the university of Kansas medical center or at another health care institution.

(2) "Employee" does not include: (A) An individual or entity for actions within the scope of K.S.A. 60-3614, and amendments thereto; or

(B) any independent contractor under contract with a governmental entity except those contractors specifically listed in paragraph (1) of this subsection.

(e) "Charitable health care provider" means a person licensed by the state board of healing arts as an exempt licensee or a federally active licensee, a person issued a limited permit by the state board of healing arts, a physician assistant licensed by the state board of healing arts or a health care provider as the term "health care provider" is defined under K.S.A. 65-4921, and amendments thereto, who has entered into an agreement with:

(1) The secretary of health and environment under K.S.A. 75-6120, and amendments thereto, who, pursuant to such agreement, gratuitously renders professional services to a person who has provided information which would reasonably lead the health care provider to make the good faith assumption that such person meets the definition of medically indigent person as defined by this section or to a person receiving medical assistance from the programs operated by the department of social and rehabilitation services, and who is considered an employee of the state of Kansas under K.S.A. 75-6120, and amendments thereto;

(2) the secretary of health and environment and who, pursuant to such agreement, gratuitously renders professional services in conducting children's immunization programs administered by the secretary;

(3) a local health department or indigent health care clinic, which renders professional services to medically indigent persons or persons receiving medical assistance from the programs operated by the department of social and rehabilitation services gratuitously or for a fee paid by the local health department or indigent health care clinic to such provider and who is considered an employee of the state of Kansas under K.S.A. 75-6120, and amendments thereto. Professional services rendered by a provider under this paragraph (3) shall be considered gratuitous notwithstanding fees based on income eligibility guidelines charged by a local health department or indigent health care clinic and notwithstanding any fee paid by the local health department or indigent health care clinic to a provider in accordance with this paragraph (3); or

(4) the secretary of health and environment to provide dentistry services defined by K.S.A. 65-1422 et seq., and amendments thereto, or dental hygienist services defined by K.S.A. 65-1456, and amendments thereto, that are targeted, but are not limited to medically indigent persons, and are provided on a gratuitous basis at a location sponsored by a not-for-profit organization that is not the dentist or dental hygienist office location. Except that such dentistry services and dental hygienist services shall not include "oral and maxillofacial surgery" as defined by Kansas administrative regulation 71-2-2, or use sedation or general anesthesia that result in "deep sedation" or "general anesthesia" as defined by Kansas administrative regulation 71-5-1.

(f) "Medically indigent person" means a person who lacks resources to pay for medically necessary health care services and who meets the eligibility criteria for qualification as a medically indigent person established by the secretary of health and environment under K.S.A. 75-6120, and amendments thereto.

(g) "Indigent health care clinic" means an outpatient medical care clinic operated on a not-for-profit basis which has a contractual agreement in effect with the secretary of health and environment to provide health care services to medically indigent persons.

(h) "Local health department" shall have the meaning ascribed to such term under K.S.A. 65-241, and amendments thereto.

(i) "Fire control, fire rescue or emergency medical services equipment" means any vehicle, firefighting tool, protective clothing, breathing apparatus and any other supplies, tools or equipment used in firefighting or fire rescue or in the provision of emergency medical services.

**History:** L. 1979, ch. 186, § 2; L. 1982, ch. 374, § 1; L. 1983, ch. 299, § 1; L. 1987, ch. 353, § 1; L. 1990, ch. 146, § 4; L. 1990, ch. 329, § 2; L. 1990, ch. 149, § 9; L. 1991, ch. 268, § 1; L. 1991, ch. 182, § 5; L. 1993, ch. 29, § 2; L. 1994, ch. 343, § 1; L. 1995, ch. 82, § 7; L. 1996, ch. 91, § 4; L. 1997, ch. 156, § 91; L. 2000, ch. 164, § 1; L. 2002, ch. 46, § 1; L. 2003, ch. 2, § 1; L. 2003, ch. 158, § 9; L. 2004, ch. 122, § 1; L. 2005, ch. 139, § 2; L. 2009, ch. 44, § 1; Apr. 16.

# Sexually Transmitted Diseases

## CHILD HYGIENE

**65-153b. Newly born infant; treatment of eyes.** Any physician or any person authorized by law to act as an obstetrician shall immediately upon birth of an infant instill in the eyes of such newly born infant a prophylactic solution approved by the secretary of health and environment: Provided, however, that any person or parent shall not be required to employ such prophylactic if objection is made by a written statement to the attending obstetrician within three days from the birth of said child: And provided further, that said written statement shall be attached to the birth certificate.

HISTORY: L. 1929, ch. 218, sec. 2; L. 1974, ch. 352, sec. 14; July 1.

**65-153f. Prenatal serological tests for syphilis and hepatitis b; approved laboratories; laboratory reports, confidentiality.** Each physician or other person attending a pregnant woman in this state during gestation, with the consent of such woman, shall take or cause to be taken a sample of blood of such woman within 14 days after diagnosis of pregnancy is made. Such sample shall be submitted for serological tests which meet the standards recognized by the United States public health service for the detection of syphilis and hepatitis b to a laboratory approved by the secretary of health and environment for such serological tests. Any state, United States public health service, or United States army, navy or air force laboratory or any laboratory approved by the state health agency of the state in which the laboratory is operated shall be considered approved for the purposes of this act. Any laboratory in this state, performing the tests required by this section shall make a report to the secretary of health and environment of all positive or reactive tests on forms provided by the secretary of health and environment and also shall make a report of the test results to the submitting physician or person attending the woman. Laboratory statements, reports, files and records prepared pursuant to this section shall be confidential and shall not be divulged to or open to inspection by any person other than state or local health officers or their duly authorized representatives, except by written consent of the woman.

HISTORY: L. 1943, ch. 225, sec. 1; L. 1974, ch. 352, sec. 16; L. 1981, ch. 241, sec. 1; L. 1991 ch. 178, sec. 1; L. 1995, ch. 260, sec. 3; July 1.

## TREATMENT OF MINORS

**65-2892. Examination and treatment of persons under 18 for venereal disease; liability.** Any physician, upon consultation by any person under eighteen (18) years of age as a patient, may, with the consent of such person who is hereby granted the right of giving such consent, make a diagnostic examination for venereal disease and prescribe for and treat such person for venereal disease including prophylactic treatment for exposure to venereal disease whenever such person is suspected of having a venereal disease or contact with anyone having a venereal disease. All such examinations and treatment may be performed without the consent of, or notification to, the parent, parents, guardian or any other person having custody of such person. Any physician examining or treating such person for venereal disease may, but shall not be obligated to, in accord with his opinion of what will be most beneficial for such person, inform the spouse, parent, custodian, guardian or fiancé of such person as to the treatment given or needed without the consent of such person. Such informing shall not constitute libel or slander or a violation of the right of privacy or privilege or otherwise subject the physician to any liability

whatsoever. In any such case, the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions. The physician shall incur no civil or criminal liability by reason of any adverse reaction to medication administered, provided reasonable care has been taken to elicit from such person under eighteen (18) years of age any history of sensitivity or previous adverse reaction to the medication.

HISTORY: L. 1969, ch. 222, sec. 1; L. 1972, ch. 161, sec. 17; July 1.



# Tuberculosis

## **65-116a. Definitions.** As used in this act:

(a) The word "tuberculosis" shall be construed to mean that the disease is in a communicable or infectious stage as established by chest x-ray, microscopical examination of sputum, or other diagnostic procedures approved by the secretary of health and environment; and

(b) the words "health officer" shall include the secretary of health and environment or the secretary's designee and all local health officers.

HISTORY: L. 1957, ch. 467, sec. 1; L. 1974, ch. 352, sec. 5; L. 1975, ch. 311, sec. 1; L. 1980, ch. 182, sec. 18; July 1.

**65-116b. Tuberculosis suspects; order by health officer; scope of examination; care and treatment.** When any health officer shall have reasonable grounds to believe that any person has tuberculosis in a communicable form and will not voluntarily seek a medical examination, it shall be the duty of such health officer to order such person, either orally or in writing, to undergo an examination by a physician qualified in chest diseases, or at some clinic or medical care facility qualified to make such examinations. It shall be the duty of such suspected person to present himself or herself for examination at such time and place as ordered by the health officer. The examination shall include an x-ray of the chest, examination of sputum, and such other forms and types of examinations as shall be approved by the secretary of health and environment.

If, upon examination, it shall be determined that such person has tuberculosis in an active stage or in a communicable form, then it shall be the duty of such tuberculous person to arrange for admission of himself or herself as a patient in some medical care facility qualified to treat persons with tuberculosis or when there is no danger to the public or to other individuals as determined by the health officer, such person may receive treatment on an outpatient basis.

HISTORY: L. 1957, ch. 467, sec. 2; L. 1974, ch. 352, sec. 6; L. 1975, ch. 311, sec. 2; Oct. 1.

**65-116c. Precautions to prevent spread of infection, when; investigations.** Whenever it has been determined that any person has tuberculosis in an active stage or in a communicable form, and such person is not immediately admitted as a patient in any medical care facility qualified to treat persons with tuberculosis, it shall be the duty of the health officer to instruct such person as to the precautions necessary to be taken to protect the members of such person's household or the community from becoming infected with tuberculosis communicated by such person, and it shall be the duty of such tuberculous person to conduct himself or herself in such a manner as not to expose members of his or her family or household, or any other person with whom he or she may be associated to danger of infection, and said health officer shall investigate from time to time for the purpose of seeing if said instructions are being carried out in a reasonable and acceptable manner.

HISTORY: L. 1957, ch. 467, sec. 3; L. 1975, ch. 311, sec. 3; Oct. 1.

**65-116d. Failure to do required acts; proceedings by county attorney.** Whenever any person shall fail to do any of the following enumerated acts, the health officer shall file a written notice of such failure with the county or district attorney of the county where such person resides, and said county or district attorney shall institute proceedings to enforce the intent and provisions of this act:

(a) Fail or refuse to present himself or herself to any private physician qualified in chest diseases, or at some clinic, or medical care facility qualified to make such examinations, at such time and place as ordered by the health officer.

(b) Fail or refuse to follow the instructions of the health officer or private physicians qualified in chest diseases or qualified clinic or medical care facility as to the precautions necessary to be taken to protect the members of his or her household, or any member of the community, or any other person with whom he or she might be associated from danger of infection by tuberculosis communicated by such person.

HISTORY: L. 1957, ch. 467, sec. 4; L. 1974, ch. 352, sec. 184; L. 1975, ch. 311, sec. 4; Oct 1.

**65-116e. Commitment to medical care facility; restraint; discharge, when; recommitment.** If any person shall be convicted of any of the violations set forth in paragraphs (a) and (b) of K.S.A. 65-116d, or shall enter a plea of guilty thereto when charged with such violations, then such person shall be committed to a medical care facility qualified to treat tuberculosis. Any patient so committed may, by direction of the health officer or tuberculosis consultant of the medical care facility concerned, be placed apart from the others and restrained from leaving the institution. The tuberculosis consultant of the medical care facility concerned, upon signing and placing among the permanent records of the medical care facility a statement to the effect that such person may be discharged without danger to the health or life of others, may discharge the person so committed at any time during the period of commitment. A copy of such statement shall be sent to the state health officer. If necessary, recommitment may be effected in the same manner as original commitment.

HISTORY: L. 1957, ch. 456, sec. 5; L. 1974, ch. 352, sec. 185; L. 1975, ch. 311, sec. 5; Oct. 1

**65-116g. Penalty for violations of act or regulations.** Any person who violates any provision of this act, or any rules or regulations of the secretary of health and environment for the enforcement of this act, or violates any of the rules or regulations of any institution while a patient therein, or conducts himself in a disorderly manner, shall be guilty of a misdemeanor.

HISTORY: L. 1957, ch. 467, sec. 7; L. 1974, ch. 352, sec. 7; July 1.

**65-116h. Preservation of individual rights.** Nothing in this act shall be construed or operate to empower or authorize the secretary of health and environment or the secretary's designee or a local health officer to restrict in any manner the individual's right to select the mode of treatment of his or her choice.

HISTORY: L. 1957, ch. 467, sec. 8; L. 1980, ch. 182, sec. 19; July 1.

**65-116i. Expenses of care, maintenance and treatment; payment from state funds.** Except as otherwise provided by K.S.A. 65-116l, the expenses incurred in the patient care, maintenance and treatment of patients committed under the provisions of K.S.A. 65-116e, or of other persons having communicable or infectious tuberculosis who voluntarily agree to accept care and treatment shall be paid from state funds appropriated to the department of social and rehabilitation services for the purpose of paying medical care facilities and physicians qualified to treat persons infected with tuberculosis.

HISTORY: L. 1975, ch. 311, sec. 6; Oct 1.

**65-116j. Care, maintenance and treatment; powers and duties of the secretary of health and environment.** The secretary of health and environment is hereby granted and may exercise the following powers and duties in providing for the care, maintenance and treatment of persons having communicable or infectious tuberculosis.

(a) To select medical care facilities qualified to treat persons infected with tuberculosis for the purpose of caring for, maintaining and treating patients committed in accordance with the provisions of K.S.A. 65-116e and other persons having communicable or infectious tuberculosis who have voluntarily agree to accept care and treatment by a medical care facility on either an inpatient or an outpatient basis;

(b) To inspect the facilities, operations and administration of those medical care facilities receiving financial assistance from the department of social and rehabilitation services for the purpose of providing care, maintenance or treatment for persons infected with communicable or infectious tuberculosis;

(c) To provide public health nursing services to persons having infectious or communicable tuberculosis who are being treated on an outpatient basis; and

(d) To adopt rules and regulations establishing standards for the hospital admission and discharge, care, treatment and maintenance of persons having communicable or infectious tuberculosis.

HISTORY: L. 1975, ch. 311, sec. 7; Oct. 1.

**65-116k. Rules and regulations of secretary of social and rehabilitation services; payments for care and treatment.** The secretary of social and rehabilitation services is hereby authorized and directed to adopt rules and regulations establishing reasonable rates and administrative procedures to be followed in making payments to the medical care facilities and physicians providing care and treatment under the provisions of this act. Payments shall only be made directly to medical care facilities and physicians except that this act shall not be deemed to create any rights or causes of action against the state or the secretary of social and rehabilitation services in such a medical care facility or physician, their heirs or assigns. No payments shall be made for expenses incurred prior to the time the secretary assumes payment responsibility and payments made by the secretary on behalf of an individual eligible for payments under the provisions of this act shall constitute a complete settlement of the claim upon

which such payment is based.

HISTORY: L. 1975, ch. 311, sec. 8; Oct 1.

**65-116l. Use of funds for care, maintenance or treatment; limitations.** No funds appropriated to the department of social and rehabilitation services for the purpose of carrying out the provisions of K.S.A. 65-116i shall be used for meeting the cost of the care, maintenance or treatment of any person who has communicable or infectious tuberculosis by a medical care facility on an inpatient basis to the extent that such cost is covered by insurance or other third party payments, or to the extent that such person or a person who is legally responsible for the support of such person is able to assume the cost of such care, maintenance, treatment or transportation. The secretary of social and rehabilitation services in determining the ability of a person to assume such costs shall consider the following factors: (a) The age of such person; (b) the number of such person's dependents and their ages and physical condition; (c) the person's length of care, maintenance or treatment, if such person is the person receiving the care, maintenance or treatment; (d) such person's liabilities; (e) such person's assets; and (f) such other factors as the secretary deems important. The secretary of social and rehabilitation services may adopt rules and regulations necessary to carry out the provisions of this section.

HISTORY: L. 1975, ch. 311, sec. 9; Oct. 1.

**65-116m. Recovery of cost of care, maintenance or treatment from third parties.** Where funds appropriated to the department of social and rehabilitation services have been expended for the purpose of meeting the cost of care, maintenance or treatment of any person who has communicable or infectious tuberculosis pursuant to the provision of this act and a third party has a legal obligation to pay such cost to or on behalf of the recipient, the secretary of social and rehabilitation services may recover the same from the recipient or from the third party and in all respects shall be subrogated to the rights of the recipient in such cases.

HISTORY: L. 1975, ch. 311, sec. 10; Oct. 1.

**65-129a. Definitions.** As used in K.S.A. 2009 Supp. 65-129b to 65-129d, inclusive, and amendments thereto:

(a) "Infectious or contagious disease" has the meaning ascribed thereto by subsection (b) of K.S.A. 65-128, and amendments thereto, but the infectious or contagious disease acquired immune deficiency syndrome or any causative agent thereof shall not constitute an infectious or contagious disease for the purposes of K.S.A. 2009 Supp. 65-129b and 65-129c, and amendments thereto.

(b) "Secretary" means the secretary of health and environment.

**History:** L. 2005, ch. 122, § 1; Apr. 21.

**65-129b. Infections or contagious diseases; authority of local health officer or secretary; evaluation or treatment orders, isolation or quarantine orders; enforcement.** (a) Notwithstanding the provisions of K.S.A. 65-119, 65-122, 65-123, 65-126 and 65-128, and amendments thereto, and any rules or regulations adopted thereunder, in investigating actual or potential exposures to an

infectious or contagious disease that is potentially life-threatening, the local health officer or the secretary:

(1) (A) May issue an order requiring an individual who the local health officer or the secretary has reason to believe has been exposed to an infectious or contagious disease to seek appropriate and necessary evaluation and treatment;

(B) when the local health officer or the secretary determines that it is medically necessary and reasonable to prevent or reduce the spread of the disease or outbreak believed to have been caused by the exposure to an infectious or contagious disease, may order an individual or group of individuals to go to and remain in places of isolation or quarantine until the local health officer or the secretary determines that the individual no longer poses a substantial risk of transmitting the disease or condition to the public;

(C) if a competent individual of 18 years of age or older or an emancipated minor refuses vaccination, medical examination, treatment or testing under this section, may require the individual to go to and remain in a place of isolation or quarantine until the local health officer or the secretary determines that the individual no longer poses a substantial risk of transmitting the disease or condition to the public; and

(D) if, on behalf of a minor child or ward, a parent or guardian refuses vaccination, medical examination, treatment or testing under this section, may require the minor child or ward to go to and remain in a place of isolation or quarantine and must allow the parent or guardian to accompany the minor child or ward until the local health officer or the secretary determines that the minor child or ward no longer poses a substantial risk of transmitting the disease or condition to the public; and

(2) may order any sheriff, deputy sheriff or other law enforcement officer of the state or any subdivision to assist in the execution or enforcement of any order issued under this section.

**History:** L. 2005, ch. 122, § 2; Apr. 21.

**65-129c. Same; orders for isolation or quarantine; form and content; notice; hearing in district court; application and effect; procedure; orders for relief; emergency rules of procedure.** (a) If the local health officer or the secretary requires an individual or a group of individuals to go to and remain in places of isolation or quarantine under K.S.A. 2009 Supp. 65-129b, and amendments thereto, the local health officer or the secretary shall issue an order to the individual or group of individuals.

(b) The order shall specify:

- (1) The identity of the individual or group of individuals subject to isolation or quarantine;
- (2) the premises subject to isolation or quarantine;
- (3) the date and time at which isolation or quarantine commences;
- (4) the suspected infectious or contagious disease causing the outbreak or disease, if known;
- (5) the basis upon which isolation or quarantine is justified; and
- (6) the availability of a hearing to contest the order.

(c) (1) Except as provided in paragraph (2) of subsection (c), the order shall be in writing and given to the individual or group of individuals prior to the individual or group of individuals being required to go to and remain in places of isolation and quarantine.

(2) (A) If the local health officer or the secretary determines that the notice required under paragraph (1) of subsection (c) is impractical because of the number of individuals or geographical areas affected, the local health officer or the secretary shall ensure that the affected individuals are fully informed of the order using the best possible means available.

(B) If the order applies to a group of individuals and it is impractical to provide written individual copies under paragraph (1) of subsection (c), the written order may be posted in a conspicuous place in the isolation or quarantine premises.

(d) (1) An individual or group of individuals isolated or quarantined under this section may request a hearing in district court contesting the isolation or quarantine, as provided in article 15 of chapter 60 of the Kansas Statutes Annotated, but the provisions of this section shall apply to any order issued under K.S.A. 2009 Supp. 65-129a to 65-129d, inclusive, and amendments thereto, notwithstanding any conflicting provisions contained in that article.

(2) A request for a hearing may not stay or enjoin an isolation or quarantine order.

(3) Upon receipt of a request under this subsection (d), the court shall conduct a hearing within 72 hours after receipt of the request.

(4) (A) In any proceedings brought for relief under this subsection (d), the court may extend the time for a hearing upon a showing by the local health officer or the secretary or other designated official that extraordinary circumstances exist that justify the extension.

(B) In granting or denying an extension, the court shall consider the rights of the affected individual, the protection of the public health, the severity of the health emergency and the availability, if necessary, of witnesses and evidence.

(C) (i) The court shall grant the request for relief unless the court determines that the isolation or quarantine order is necessary and reasonable to prevent or reduce the spread of the disease or outbreak believed to have been caused by the exposure to an infectious or contagious disease.

(ii) If feasible, in making a determination under this paragraph (C), the court may consider the means of transmission, the degree of contagion, and, to the extent possible, the degree of public exposure to the disease.

(5) An order of the court authorizing the isolation or quarantine issued under this section shall:

(A) Identify the isolated or quarantined individual or group of individuals by name or shared characteristics;

(B) specify factual findings warranting isolation or quarantine; and

(C) except as provided in paragraph (2) of subsection (c), be in writing and given to the individual or group of individuals.

(6) If the court determines that the notice required in paragraph (C) of subsection (d)(5) is impractical because of the number of individuals or geographical areas affected, the court shall ensure that the affected individuals are fully informed of the order using the best possible means available.

(7) An order of the court authorizing isolation or quarantine shall be effective for a period not to exceed 30 days. The court shall base its decision on the standards provided under this section.

(8) In the event that an individual cannot personally appear before the court, proceedings may be conducted:

(A) By an individual's authorized representative; and

(B) through any means that allows other individuals to fully participate.

(9) In any proceedings brought under this section, the court may order the consolidation of individual claims into group claims where:

(A) The number of individuals involved or affected is so large as to render individual participation impractical;

(B) there are questions of law or fact common to the individual claims or rights to be determined;

(C) the group claims or rights to be determined are typical of the affected individual's claims or rights; and

(D) the entire group will be adequately represented in the consolidation.

(10) The court shall appoint counsel to represent individuals or a group of individuals who are not otherwise represented by counsel.

(11) The supreme court of Kansas may develop emergency rules of procedure to facilitate the efficient adjudication of any proceedings brought under this section.

**History:** L. 2005, ch. 122, § 3; Apr. 21.

**65-129e. Tuberculosis evaluation requirements for certain students; rules and regulations; evaluation criteria; treatment and monitoring of infected persons.**

(a) The secretary of health and environment is hereby authorized and directed to adopt rules and regulations establishing tuberculosis evaluation requirements for certain students entering college or university classrooms of a postsecondary educational institution in Kansas having been born in or lived or traveled in countries identified by the centers for disease control and prevention as areas where tuberculosis is a health risk. Compliance with these rules and regulations, including all cost associated with the evaluation, shall be the joint responsibility of the educational institutions and the student or the parents or guardians of the student, where applicable who are considered as high risk for tuberculosis as defined by the department of health and environment. These rules and regulations shall establish evaluation criteria in compliance with best practice standards as recommended by the division of tuberculosis elimination of the centers for disease control and prevention.

(b) Each postsecondary educational institution shall develop and implement tuberculosis evaluation requirements with assistance of the department of health and environment. Each postsecondary educational institution shall designate a person who is responsible for the oversight and implementation of the requirements. Such person shall maintain the record for at least five years and the department of health and environment shall have the right to review and inspect the records upon request. Such person shall report immediately the positive findings of tuberculosis infection or disease to the department of health and environment.

(c) Each student entering classrooms of a postsecondary educational institution in Kansas shall comply with the tuberculosis evaluation requirements implemented by such institution where the student is enrolled by providing requested information in accordance with a screening and evaluation through an enrollment process. Any student who is not in compliance with the requirements shall not be attending classes or eligible to enroll for a subsequent semester or term or to obtain an official academic transcript or diploma until the student is compliant with the requirements.

(d) Nothing in this section and section 1, and amendments thereto, shall be construed as applying to individuals who are not attending the classes regularly but participating in the continuing education programs or any other seminar or function at the postsecondary educational institution.

(e) “Postsecondary educational institution” used in this section and section 1, and amendments thereto, means any public or private university, municipal university, community college or technical college.

(f) All costs associated with the evaluation requirements of the prevention and control plan shall be the responsibility of the student.

(g) Any person found to be infected with tuberculosis infection or tuberculosis disease will be provided treatment and ongoing monitoring in accordance with K.S.A. 65-116a to 65-116m, inclusive, and amendments thereto.

**History:** L. 2005, ch. 122, § 5; 2010 July

# **Kansas Disease Control Regulations**



# General Disease Control

## 28-1-1. Definitions.

(a) "Carrier" means an infected person (or animal) that harbors a specific infectious agent in the absence of discernible clinical disease and serves as a potential source of infection for humans.

(b) "Chemoprophylaxis" means the administration of a chemical, including antibiotics, to prevent the development of an infection or the progression of an infection to active manifest disease.

(c) "Infectious or contagious (communicable) disease" means a disease of humans or animals resulting from an infection or an illness due to a specific agent or its toxic products which arise through transmission of that agent or its products from a reservoir to a susceptible host, either directly, or indirectly.

(d) "Communicable period" means that time or times during which an infectious agent may be transferred directly or indirectly from an infected person to another person, from an infected animal to a person, or from an infected person to an animal, including arthropods.

(e) "Contact" means a person or animal that has been in association with an infected person or animal or a contaminated environment so as to have had opportunity to acquire the infection.

(f) "Contamination" means the presence of an infectious agent on a body surface, or on or in clothes, bedding, toys, surgical instruments or dressings, or other inanimate articles or substances, including water, milk and food.

(g) "Disinfection" means killing of infectious agents outside the body by chemical or physical means. Concurrent disinfection is the application of disinfective measures as soon as possible after the discharge of infectious material from the body of an infected person, or after the soiling of articles with this infectious discharge, all personal contact with these discharges or articles being minimized before that disinfection. Terminal disinfection is the application of disinfective measures after an infected person or animal has ceased to be a source of infection, has been removed from a specific site or has died and been removed.

(h) "Disease" means a definite morbid process having a characteristic train of symptoms.

(i) "Epidemic (or outbreak)" means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy and derived from a common or propagated source.

(j) "Incubation period" means the time interval between exposure to an infectious agent and appearance of the first sign or symptom of the disease in question.

(k) "Infection" means the entry and development or multiplication of an infectious agent in the

body of humans or animals. Infection is not synonymous with infectious disease; the result may be inapparent or manifest.

(l) "Infectious agent" means an organism, chiefly a microorganism but including helminths, that is capable of producing infection or infectious disease.

(m) "Infestation" means, for persons or animals, the lodgement, development and reproduction of arthropods on the surface of the body or in clothing.

(n) "Isolation" means the separation, for the period of communicability, of infected persons or animals from others, in places and under conditions that prevent the direct or indirect conveyance of the infectious agents from those infected to those who are susceptible or who may spread the agent to others.

(1) When "respiratory isolation" is specified, it shall consist of a private room with door kept closed, handwashing upon entering and leaving the room, and disinfection of articles contaminated with patient secretions. Persons susceptible to the specific disease must wear masks.

(2) "Enteric precautions" shall consist of handwashing upon entering and leaving the patient room, wearing of gloves by all persons having direct contact with the patient or with articles contaminated with fecal material, and wearing of gowns by all persons having direct contact with the patient. Articles contaminated with the patient's urine or feces shall be disinfected or discarded; masks are not necessary.

(3) "Blood precautions" shall consist of use of disposable needles and syringes, disposal of used needles and syringes by incineration, and decontamination and sterilization of all non-disposable equipment which is contaminated by blood.

(o) "Local health officer" means the person appointed as local health officer by the board of county commissioners in accordance with K.S.A. 65-201.

(p) "Nosocomial infection" means an infection originating in a medical facility. This includes infections acquired in the hospital but appearing after discharge; it also includes infections among staff.

(q) "Quarantine" means the limitation of freedom of movement of well persons or domestic animals that have been exposed to a communicable disease. (Authorized by and implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)

# Disease Reporting

## 28-1-2. Designation of infectious or contagious diseases.

(a) The following diseases shall be designated as infectious or contagious in their nature, and cases or suspect cases shall be reported within seven days, unless otherwise specified, in accordance with K.S.A. 65-118 and K.S.A. 65-128, and amendments thereto.

- (1) Amebiasis;
- (2) anthrax (report by telephone within four hours to the secretary);
- (3) arboviral disease, including West Nile virus, western equine encephalitis (WEE), and St. Louis encephalitis (SLE);
- (4) botulism (report by telephone within four hours to the secretary);
- (5) brucellosis;
- (6) campylobacter infections;
- (7) chancroid;
- (8) *Chlamydia frachomatis* genital infection;
- (9) cholera (report by telephone within four hours to the secretary);
- (10) cryptosporidiosis;
- (11) cyclospora infection;
- (12) diphtheria;
- (13) ehrlichiosis;
- (14) *Escherichia coli* enteric infection from *E. coli* O157:H7 and other shiga toxin-producing *E. coli*, also known as STEC;
- (15) giardiasis;
- (16) gonorrhea;
- (17) *Haemophilus influenzae*, invasive disease;
- (18) hemolytic uremic syndrome, post-diarrheal;

- (19) hepatitis B in pregnancy (report the pregnancy of each woman with hepatitis B);
- (20) hepatitis, viral;
- (21) hantavirus pulmonary syndrome;
- (22) influenza, if the disease results in the death of any child under 18 years of age;
- (23) legionellosis;
- (24) leprosy or Hansen's disease;
- (25) listeriosis;
- (26) Lyme disease;
- (27) malaria;
- (28) measles or rubeola (report by telephone within four hours to the secretary);
- (29) meningitis, bacterial (indicate causative agent, if known, and report by telephone within four hours to the secretary);
- (30) meningococemia (report by telephone within four hours to the secretary);
- (31) mumps (report by telephone within four hours to the secretary);
- (32) pertussis or whooping cough (report by telephone within four hours to the secretary);
- (33) plague or *Yersinia pestis* (report by telephone within four hours to the secretary);
- (34) poliomyelitis (report by telephone within four hours to the secretary);
- (35) psittacosis;
- (36) rabies, animal and human (report by telephone within four hours to the secretary);
- (37) Rocky Mountain spotted fever;
- (38) rubella, including congenital rubella syndrome (report by telephone within four hours to the secretary);
- (39) salmonellosis, including typhoid fever;
- (40) severe acute respiratory syndrome (SARS) (report by telephone within four hours to the secretary);

(41) shigellosis;

(42) streptococcal invasive, drug-resistant disease from group A *Streptococcus* or *Streptococcus pneumoniae*;

(43) syphilis, including congenital syphilis;

(44) tetanus;

(45) toxic-shock syndrome, streptococcal and staphylococcal;

(46) any transmissible spongiform encephalopathy (TSE) or prion disease (indicate causative agent, if known);

(47) trichinosis;

(48) tuberculosis, active and latent (report active disease by telephone within four hours to the secretary);

(49) tularemia;

(50) varicella or chickenpox;

(51) yellow fever; and

(52) any exotic or newly recognized disease, and any disease unusual in incidence or behavior, known or suspected to be infectious or contagious and constituting a risk to the public health (report by telephone within four hours to the secretary).

(b) The occurrence of a single case of any unusual disease or manifestation of illness that the health care provider determines or suspects could be caused by or related to a bioterrorism act shall be reported within four hours by telephone to the secretary. The term “bioterrorism act,” as used in this article, shall mean a dispersion of biological or chemical agents with the intention to harm. Each bioterrorism act shall be reported within four hours by telephone to the secretary. The following shall be considered bioterrorism agents when identified in the course of a possible bioterrorism act:

(1) Anthrax;

(2) plague;

(3) smallpox;

(4) tularemia;

(5) botulism;

- (6) viral hemorrhagic fever;
- (7) Q fever or *Coxiella burnetii*;
- (8) brucellosis; and
- (9) any other infectious or toxic agent that can be intentionally dispersed in the environment.

(Authorized by K.S.A. 65-101 and 65-128; implementing K.S.A. 65-118 and 65-128; effective May 1, 1982; amended May 1, 1986; amended Dec. 24, 1990; amended April 19, 1993; amended Jan. 12, 1996; amended Dec. 1, 1997; amended Feb. 18, 2000; amended, T-28-11-20-03, Nov. 20, 2003; amended March 5, 2004; amended April 28, 2006.)

#### **28-1-4. Registration of disease prevalence.**

(a) The administrator of each hospital licensed in the state shall report the following diseases to the secretary:

- (1) All diseases listed in K.A.R. 28-1-2;
- (2) cancer, as required by K.A.R. 28-70-2;
- (3) congenital malformations in infants under one year of age;
- (4) acquired immune deficiency syndrome; and
- (5) fetal alcohol syndrome.

(b) The administrator of each hospital licensed in the state shall report the following information to the secretary when requested by the secretary and for the duration specified by the secretary, if this information is in the hospital's possession:

- (1) The number of laboratory test orders and the results for specified infectious or contagious diseases;
- (2) the number of pharmacy prescriptions for medications used to treat specified infectious or contagious diseases;
- (3) the number of emergency room visits for symptoms related to specified infectious or contagious diseases; and
- (4) utilization rates of other services that can provide an early warning of a disease outbreak, if that information can be provided by the hospital with minimum additional burden.

(c) The administrator of each hospital licensed in the state may designate a person within the hospital to

report diseases on behalf of the individuals required by K.S.A. 65-118, and amendments thereto, to report these diseases for cases that these individuals observe while practicing at the hospital. Each report from the designated hospital person shall fulfill all reporting requirements for individuals required by K.S.A. 65-118, and amendments thereto, to report these cases.

(Authorized by K.S.A. 65-101; implementing K.S.A. 65-102; effective May 1, 1982; amended May 1, 1986; amended Jan. 12, 1996; amended Oct. 16, 1998; amended, T-28-11-20-03, Nov. 20, 2003; amended March 5, 2004.)

**28-1-18. Notification of Kansas department of health and environment by laboratories of positive reaction to tests for certain diseases.**

(a) To assist in the control of disease in Kansas, each person who is in charge of a clinical laboratory shall notify the Kansas department of health and environment within 48 hours after testing, unless otherwise specified in this regulation, any specimen derived from the human body that yields microscopical, cultural, immunological, serological or other evidence suggestive of those diseases that are significant from a public health standpoint.

(b) (1) Each notification shall include the following:

(A) the date and result of the test performed;

(B) the name of the person from whom the specimen was obtained;

(C) when available, the date of birth or the age and the address and telephone number of the person from whom the specimen was obtained; and

(D) when available, the name and address of the physician for whom the examination or test was performed, and any other information required by the secretary.

(2) A legible copy of the laboratory report delivered by confidential electronic transmission or mail, or a confidential telephone communication of the laboratory report shall satisfy the notification requirement of this subsection.

(c) The conditions or diseases to which this regulation applies shall include the following:

(1) All diseases listed in K.A.R. 28-1-2;

(2) all blood lead level test results as follows:

(A) Blood lead level test results greater than or equal to 10 micrograms per deciliter for persons less than 18 years of age, and greater than or equal to 25 micrograms per deciliter for persons 18 years

of age or older shall be reported within 48 hours; and

(B) blood lead level test results less than 10 micrograms per deciliter for less than 18 years of age, and less than 25 micrograms per deciliter for persons 18 years of age or older shall be reported within 30 days; and

(3) CD4+ T-lymphocyte count of less than 500 per microliter or a CD4+ T-lymphocyte percent of total lymphocytes less than 29;

(d) Isolates of positive cultures of the following microorganisms shall be sent to the Kansas health and environmental, division of health and environment laboratory, unless this requirement is waived under special circumstances by the secretary of health and environment:

(1) Salmonella;

(2) shigella;

(3) Escherichia coli O157:H7; and other enterohemorrhagic, enteropathogenic, and enteroinvasive *E. coli*;

(4) *Neisseria meningitidis*;

(5) streptococcal invasive disease from group A *Streptococcus* or *Streptococcus pneumoniae*;  
and

(6) *Mycobacterium tuberculosis*.

(e) All laboratory notifications required in this regulation shall be confidential and shall not open to public inspection, as provided in K.S.A. 65-118 and amendments thereto. (Authorized by and implementing K.S.A. 65-101, K.S.A. 2001 Supp. 65-118, and K.S.A. 65-128; effective, E-68-22, Aug. 9, 1968; effective Jan. 1, 1969; effective May 1, 1986, amended Aug. 23, 1993; amended Jan. 12, 1996; amended Dec. 1, 1997; amended Feb. 18, 2000; amended, T-28-8-9-02 Aug. 9, 2002.)



# HIV/AIDS

## **28-1-26 Protection of confidentiality of information regarding individuals with HIV infection.**

(a) Definitions. Each of the following terms shall have the meaning specified in this subsection:

- (1) “AIDS” means the acquired immune deficiency syndrome.
- (2) “Authorized personnel” means individuals who have signed a confidentiality statement.
- (3) “Confidentiality statement” means a written statement, dated and signed by an applicable individual, that certifies the individual's agreement to abide by the security policy of a public health agency and this regulation.
- (4) “Counseling and testing site” means a site where counseling and testing for HIV infection are available.
- (5) “HIV” means the human immunodeficiency virus.
- (6) “HIV confidential information” means all combinations of individual data elements or information collected for surveillance purposes pursuant to K.S.A. 65-6002 and amendments thereto, in electronic or hard copy, that could identify anyone with HIV or AIDS, including the name, date of birth, address, and other identifying information.
- (7) “HIV confidentiality officer” means the official in a public health agency responsible for implementing and enforcing all the measures to protect HIV confidential information as defined under this regulation.
- (8) “HIV infection” means the presence of HIV in the body.
- (9) “HIV prevention counseling” and “HPC” mean a client-centered counseling activity designed to assist clients in assessing their risks of acquiring or transmitting HIV and in negotiating a realistic and incremental plan for reducing risk.
- (10) “HIV report” means a report of HIV infection or AIDS transmitted to a public health agency pursuant to K.S.A. 65-6002 and amendments thereto.
- (11) “Partner counseling and referral services” and “PCRS” mean a prevention and control activity conducted by trained individuals who contact and counsel each individual with HIV infection or AIDS who is reported to the secretary utilizing HPC.
- (12) “Public health agency” means any organization operated by any state or local government that acquires, uses, discloses, or stores HIV confidential information for public health purposes.
- (13) “Secretary” means the secretary of health and environment.
- (14) “Secured area” means the physical confinement limiting the location where HIV confidential

information is available.

(15) “Written security policy” means written specifications of the measures adopted to protect HIV confidential information and a description of how to implement these measures.

(b) Each public health agency shall appoint an HIV confidentiality officer, who shall have the authority to make decisions about the agency operations that could affect the protection of HIV confidential information.

(c) HIV confidential information shall be maintained in a secured area that is not easily accessible through a window and that is protected by a locked door. Access to the secured area shall be limited to authorized personnel only, and “Restricted area--No unauthorized access” signs shall be prominently posted. Access to the secured area by cleaning crews and other building maintenance personnel shall be granted only during hours when authorized personnel are available for escort or under conditions in which the data is protected by security measures specified in the written security policy.

(d) Hard copy records containing HIV confidential information shall be kept in a locked cabinet located in a secured area, except when in use by authorized personnel. Records shall not be removed from any secured area without authorization from the HIV confidentiality officer.

(e) All electronic records containing HIV confidential information shall be kept on computers protected by coded, individual passwords and located in a secured area. Each transfer of records onto removable electronic media shall occur only if absolutely necessary for HIV surveillance program operations and shall be required to be authorized by the HIV confidentiality officer. The records shall always be encrypted before the transfer to the removable media. Exchange of HIV confidential information using electronic mail shall be done only if encryption procedures are utilized.

(f) HIV confidential information shall be permanently removed from HIV records as soon as the information is no longer necessary for the purposes of the prevention and control of HIV infection.

(g) Mail containing HIV confidential information shall not include on the envelope or address any reference to the HIV infection, to the HIV virus, or to AIDS.

(h) All telephone conversations in which HIV confidential information is exchanged shall be conducted in a manner that prevents the conversations from being overheard by unauthorized persons.

(i) Each local health officer responsible for a public health agency shall adopt and implement a written security policy related to HIV confidential information consistent with the provisions of this regulation. A copy of the security policy shall be distributed to all authorized personnel.

(j) Access to HIV confidential information shall be restricted to a minimum number of authorized personnel trained in confidentiality procedures and aware of penalties for the unauthorized disclosure of HIV confidential information. The HIV confidentiality officer shall authorize the persons who may have access to HIV confidential information and shall keep a list of these authorized personnel.

(k) Each person authorized to access HIV confidential information shall sign a confidentiality agreement. The HIV confidentiality officer shall maintain a copy of the confidentiality agreement for all authorized personnel.

(l) HIV confidential information shall not be cross-matched with records in other databases if the resulting cross-matched databases do not have equivalent security and confidentiality protections, and penalties for unauthorized disclosure as those for the HIV confidential information.

(m) The use of records containing HIV confidential information for research purposes shall be required to be approved in advance by institutional review boards, and all researchers shall sign confidentiality statements. Information made available for epidemiologic analyses shall not include names or other HIV confidential information and shall not result in the direct or indirect identification of persons reported with HIV and AIDS.

(n) Authorized personnel designated by the secretary shall provide confidential, voluntary PCRS in accordance with this regulation. Any personnel providing PCRS who have reason to believe that a spouse, sex partner, or needle-sharing partner of a person who either is infected with HIV or has AIDS may be exposed to HIV or AIDS and is unaware of this risk of exposure may inform the spouse or partner of the risk of exposure if they do not reveal any identifying information about the original patient, including the name, physical description, time frame, method of transmission, and frequency of exposure.

(o) All communication between public health agencies, both interstate and intrastate, for the purpose of supporting surveillance and PCRS activities, shall disclose information only to the extent necessary to protect the public health pursuant to K.S.A. 65-6002 and amendments thereto.

(p) Each security breach of HIV confidential information shall be investigated by the HIV confidentiality officer, and personnel sanctions and criminal penalties shall be imposed as appropriate. The HIV confidentiality officer shall make an immediate telephone notification to the secretary that a breach of HIV confidential information occurred and shall transmit to the secretary a written report within seven days from the time the breach is discovered.

(q) This regulation shall apply to the following:

(1) All public health agencies engaged in the provision of services to prevent and control HIV or AIDS as specified in K.S.A. 65-6003 and amendments thereto;

(2) all individuals required to send HIV reports to the secretary under K.S.A. 65-6002, and amendments thereto; and

(3) all counseling and testing sites that receive funds from public health agencies.

(Authorized by K.S.A. 65-101 and 65-6003; implementing K.S.A. 65-6002 and 65-6003; effective Feb. 18, 2000; amended July 7, 2006.)

# Immunizations

## **28-1-20 Immunizations; schools, child care facilities, family day care homes, and preschool or child care programs operated by a school.**

(a) Definition. For the purposes of this regulation, “susceptible child” shall mean either of the following if, for that individual, there is no history of the disease that has been documented by a licensed physician, no laboratory documentation of immunity, or no documentation acceptable to the secretary that demonstrates current vaccination against the disease:

(1) Any individual who attends school as defined in K.S.A. 72-5208, and amendments thereto; or

(2) any individual who is enrolled, is placed, or resides in a child care facility as defined in K.S.A. 65-503, and amendments thereto, a family day care home, or a preschool or child care program operated by a school.

(b) Required vaccinations. Except as provided in K.S.A. 72-5209(b) and amendments thereto, each susceptible child shall be required to receive the following vaccinations before enrolling in any Kansas school:

(1) Diphtheria;

(2) hepatitis B;

(3) measles (rubeola);

(4) mumps;

(5) pertussis (whooping cough);

(6) poliomyelitis;

(7) rubella (German measles);

(8) tetanus; and

(9) varicella (chickenpox).

(c) Immunization record for school entry. The immunization record of each pupil shall document that the pupil has received the vaccinations specified in subsection (b) from a licensed physician or local health department or is not a susceptible child, on forms provided by the department.

(d) Immunizations required for a child in a child care facility, family day care home, or preschool or child care program operated by a school. Each susceptible child, including a child under 16 years of age of a child care provider who is enrolled, is placed, or resides in a child care facility, a family day care home, or a preschool or child care program operated by a school, shall be required to receive the following immunizations as medically appropriate:

- (1) Diphtheria;
- (2) *Haemophilus influenzae* type B;
- (3) hepatitis A;
- (4) hepatitis B;
- (5) measles (rubeola);
- (6) mumps;
- (7) pertussis (whooping cough);
- (8) pneumococcal disease;
- (9) poliomyelitis;
- (10) rubella;
- (11) tetanus; and
- (12) varicella (chickenpox).

(e) Immunization records for a child care facility or a family day care home. Each child's immunization record shall be maintained on the forms provided by the department.

(Authorized by K.S.A. 65-508, 65-519, and 72-5211; implementing K.S.A. 65-508, 65-519, and 72-5209; effective, E-79-18, July 20, 1978; effective May 1, 1979; amended April 9, 2004; amended July 11, 2008.)

## **LICENSED DAY CARE HOMES AND GROUP DAY CARE HOMES FOR CHILDREN**

### **28-4-117 Health care requirements for children under 16 years of age.**

- (a) (1) A completed medical record on the form provided by the department shall be on file for each child under 11 years of age enrolled for care and for each child under 16 years of age living in the child care facility.
  - (2) Each medical record shall include the results of a health assessment conducted by a nurse trained to perform health assessments or a licensed physician, within six months before the child's initial enrollment in a child care facility.
  - (3) Each medical record shall include a medical history obtained from the parent.
- (b) A child under 16 years of age shall not be required to have routine tuberculin tests.

(c) Immunizations for each child, including each child of the provider under 16 years of age, shall be current as medically appropriate and shall be maintained current for protection from the diseases specified in K.A.R. 28-1-20(d). A record of each child's immunizations shall be maintained on the child's medical record.

(d) Exceptions to the requirements for immunizations shall be permitted as specified in K.S.A. 65-508, and amendments thereto. Documentation of each exception shall be maintained on file at the child care facility.

(e) If an infant who has not been immunized against measles, mumps, rubella, and varicella because of the age of that child is enrolled and there are children in care who have not had measles, mumps, rubella, and varicella immunizations due to exemption, including the children of the provider, the parents of the infant at risk shall sign a statement that the parents have been informed of the risk to their child. This statement shall be in the infant's file at the day care or group day care home.

(f) If a child is moved to a different child care provider, a new health assessment shall not be required if the previous medical record is available.

(g) Each licensee shall provide information to parents of children in the licensee's program about the benefits of annual well-child health assessments for children under the age of six years and biennial health assessments for children six years of age and older. Each licensee shall also provide information about the importance of seeking medical advice when children exhibit health problems. This information may be given on a form provided by the department to the parent when the child is enrolled or be posted in a conspicuous place, with copies of the form available to parents on request.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-507 and 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended, T-83-27, Sept. 22, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended Feb. 26, 1990; amended July 11, 2008.)

## **GROUP BOARDING HOMES AND RESIDENTIAL CENTERS FOR CHILDREN AND YOUTH**

### **28-4-117 Health care requirements for children under 16 years of age.**

- (a) (1) A completed medical record on the form provided by the department shall be on file for each child under 11 years of age enrolled for care and for each child under 16 years of age living in the child care facility.
- (2) Each medical record shall include the results of a health assessment conducted by a nurse trained to perform health assessments or a licensed physician, within six months before the child's initial enrollment in a child care facility.
- (3) Each medical record shall include a medical history obtained from the parent.
- (b) A child under 16 years of age shall not be required to have routine tuberculin tests.
- (c) Immunizations for each child, including each child of the provider under 16 years of age, shall be current as medically appropriate and shall be maintained current for protection from the diseases specified in K.A.R. 28-1-20(d). A record of each child's immunizations shall be maintained on the child's medical record.
- (d) Exceptions to the requirements for immunizations shall be permitted as specified in K.S.A. 65-508, and amendments thereto. Documentation of each exception shall be maintained on file at the child care facility.
- (e) If an infant who has not been immunized against measles, mumps, rubella, and varicella because of the age of that child is enrolled and there are children in care who have not had measles, mumps, rubella, and varicella immunizations due to exemption, including the children of the provider, the parents of the infant at risk shall sign a statement that the parents have been informed of the risk to their child. This statement shall be in the infant's file at the day care or group day care home.
- (f) If a child is moved to a different child care provider, a new health assessment shall not be required if the previous medical record is available.
- (g) Each licensee shall provide information to parents of children in the licensee's program about the benefits of annual well-child health assessments for children under the age of six years and biennial health assessments for children six years of age and older. Each licensee shall also provide information about the importance of seeking medical advice when children exhibit health problems. This information may be given on a form provided by the department to the parent when the child is enrolled or be posted in a conspicuous place, with copies of the form available to parents on request.
- (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507 and 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended, T-83-27, Sept. 22, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended Feb. 26, 1990; amended July 11, 2008.)

## **FAMILY FOSTER HOMES FOR CHILDREN AND YOUTH**

### **28-4-316. Health care policies.**

(a) Medical and dental health of foster children.

(1) Each foster parent shall obtain emergency and on-going medical and dental care for foster children.

(2) A record of the foster child's health assessment, conducted within the past year by a nurse approved to conduct assessments, or by a licensed physician, shall be on file within 30 days of the placement. The record shall be kept on forms supplied by the Kansas department of health and environment.

(3) Health assessments shall be obtained annually for each foster child under six years of age and every three years for each foster child who is six years of age and over.

(4) Children under 16 years of age shall not be required to have tuberculin tests unless they have been recently exposed to or exhibit symptoms compatible with tuberculosis.

(5) Immunizations for each foster child under 16 years of age shall be current or in process at the time the license is issued.

(6) Exemptions to immunizations shall be permitted if:

(A) Certification is obtained from a licensed physician, stating that the physical condition of the child is such that the immunization would endanger the child's life or health; or

(B) A written statement, signed by a parent or guardian, is obtained indicating that he or she is an adherent of a religious denomination whose teachings are opposed to immunizations for the child.

(7) An annual dental examination shall be obtained for each child who is three years of age or older. Follow-up care shall be provided.

(8) Each child's medical record shall be kept current. When the child leaves the home, the record shall be given to the placing agent to accompany the child.

(b) Physical health of the foster family, under 16 years of age.

(1) Each person under 16 years of age living in the home shall have a health assessment conducted by a licensed physician, or by a nurse approved to perform health assessments, within one year prior to the date of the application. The results shall be recorded on forms provided by the Kansas department of health and environment.

(2) Children who are under age 16 and are living in the home shall have current immunizations. Exemption shall be permitted only with certification from a licensed physician stating that the physical condition of the child is such that the immunization would endanger the child's life or health, or a



written statement from the applicant that the applicant is an adherent of a religious denomination whose teachings are opposed to immunizations. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507, 65-508, 65-510; effective, E-81-22, August 27, 1980; effective May 1, 1981; amended, T-84-28, October 19, 1983; amended May 1, 1984; amended May 1, 1986.)

## **CHILD CARE CENTERS AND PRESCHOOLS**

### **28-4-430 Health practices; illness and abuse; general health requirements for staff.**

#### **(a) Children's health assessments.**

- (1) A preentrance health assessment conducted within six months before enrollment shall be required for each child. The assessment shall be conducted by a licensed physician or by a nurse approved to perform health assessments.
- (2) The results of the health assessment shall be kept on file at the child care facility.
- (3) Children transferring from one child care facility to another shall not be required to obtain a new health assessment if the previous assessment record is available.
- (4) Tuberculin testing shall be required only if the child comes in contact with a new active or reactivated case of tuberculosis. The results of the examination shall become a part of the child's health record.
- (5) Immunizations for each child in care shall be current as medically appropriate and shall be maintained current for protection from the diseases specified in K.A.R. 28-1-20(d). A record of each child's immunizations shall be maintained on the child's medical record form.
- (6) Exceptions to the requirement for immunizations shall be permitted as specified in K.S.A. 65-508, and amendments thereto. Documentation of each exception shall be maintained on file at the child care facility.
- (7) Each licensee shall provide information to the parents of children in care about the benefits of annual, well-child health assessments for children under six years of age, and biennial health assessments for children six years of age and older. Each licensee shall also provide information about the importance of seeking medical advice when a child exhibits health problems. This information may be either given on a form provided by the Kansas department of health and environment to the parent at the time the child is enrolled or posted in a conspicuous place, with copies of the form available to parents on request.

#### **(b) Health practices.**

- (1) Each child's hands shall be washed with soap and water before and after eating and after toileting.
- (2) Children shall be allowed to go to the bathroom individually as needed.

(c) Illness and abuse.

- (1) If a child is absent due to a communicable disease, staff shall inform all parents of the nature of the illness.
- (2) Each communicable disease shall be reported to the county health department.
- (3) Each staff member shall be trained to observe symptoms of illness, neglect, and child abuse and shall observe each child's physical condition daily.
- (4) Symptoms of illness shall be reported upon discovery to parents.
- (5) All evidence of neglect or unusual injuries, including bruises, contusions, lacerations, and burns, shall be noted on the child's record and shall be reported upon discovery to the program director or, in the absence of the program director, the person designated in charge of the child care facility.
- (6) The program director or, in the absence of the program director, the person designated in charge of the child care facility shall report within 24 hours to the Kansas department of social and rehabilitation services any evidence of suspected child abuse or neglect. When the local offices of the department of social and rehabilitation services are not open, reports shall be made to local law enforcement agencies.
- (7) If care of sick children is to be provided, written plans regarding the needs of a sick child and the care of a sick child shall be prepared in consultation with the public health nurse and shall be presented to the parents at the time of enrollment. The requirements for the infectious and contagious diseases specified in K.A.R. 28-1-2 and for the isolation and quarantine of individuals with the infectious and contagious diseases specified in K.A.R. 28-1-6 shall be met.
- (8) A quiet area shall be provided for any sick child. Each sick child shall be supervised by an adult.
- (9) Non-prescription medications shall not be administered to any child except on written order of the parent or guardian. Each order shall be renewed yearly. Each non-prescription medication shall be administered by a designated staff member.
- (10) Each prescription medication shall be administered by a designated staff member, from a pharmacy container labeled with the child's name, the name of the medication, the dosage and dosage intervals, the name of the physician, and the date the prescription was filled. The label shall be considered the order from the physician.
- (11) A record of the name of the designated staff member who administered the medication and the date and time the medication was given to the child shall be kept in the child's file.

(d) Staff.

- (1) Smoking shall be prohibited in the child care center or preschool.
- (2) Alcohol, as defined in K.S.A. 41-102 and amendments thereto, and non-prescribed controlled substances, as defined in K.S.A. 65-4101 and amendments thereto, shall not be consumed on the

premises during the hours of operation and shall not be consumed while children are present.

(3) Each child residing in the same location as that of a child care center or preschool shall meet the requirements specified in subsection (a).

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended July 11, 2008.)

# Isolation and Quarantine

## **28-1-5. General provisions for isolation or quarantine of persons afflicted with infectious or contagious disease; examination of persons; collection of specimens.**

(a) When the conditions of isolation and quarantine are not otherwise specified by regulation, the isolation and quarantine of persons afflicted with or exposed to infectious or contagious diseases shall be ordered and enforced by the local health officer or the secretary of health and environment to preserve the public health, safety, or welfare. The conditions of isolation or quarantine so ordered shall be based on current medical knowledge of the infectious agent of the disease for which isolation or quarantine is ordered and may include consideration of the following factors:

- (1) The incubation period;
- (2) the communicable period;
- (3) the mode of transmission; and
- (4) susceptibility.

(b) Isolation or quarantine, or both, shall be ordered in conjunction with investigation of infectious or contagious disease cases and outbreaks for examining persons reasonably suspected of having these diseases and for obtaining specimens from these persons for laboratory evidence suggestive of infectious or contagious disease.

(Authorized by K.S.A. 65-101 and 65-128; implementing K.S.A. 65-101; effective May 1, 1982; amended July 20, 2007.)

## **28-1-6 Requirements for isolation and quarantine of specific infectious and contagious diseases; exception; definition.**

(a) Any of the requirements specified in this regulation for isolation and quarantine may be altered by the secretary of health and environment or the local health officer if the secretary or local health officer determines that an alteration is necessary for the greater protection of public health, safety, or welfare. The requirements for isolation or quarantine, or both, so altered shall be based on current medical knowledge of the infectious agent of the disease for which isolation or quarantine, or both, are ordered and may include consideration of the following factors:

- (1) The incubation period;
- (2) the communicable period;
- (3) the mode of transmission; and
- (4) susceptibility.

(b)(1) For the purposes of this regulation, the phrase “enteric precautions” shall mean thorough hand washing after attending to any infectious case or touching the feces of an infected person, disinfection of any article that has been in contact with any infectious case or feces, and sanitary disposal of feces.

(2) For the purposes of this regulation, “susceptible person” shall mean an individual who meets both of the following conditions:

(A) Has been exposed to an infected person or a contaminated environment, if the exposure is sufficient to provide the individual with an opportunity to acquire that particular disease; and

(B) regarding the disease specified in paragraph (b)(2)(A), meets at least one of the following conditions:

(i) Has no history of the disease that has been documented by a licensed physician;

(ii) has no laboratory evidence of immunity; or

(iii) has no documentation acceptable to the secretary that demonstrates current immunity against the disease.

(c) The following isolation and quarantine precautions, as defined in K.A.R. 28-1-1, shall be observed:

(1) Amebiasis. Each infected food handler shall be excluded from that person's occupation until three negative stools have been obtained. Both the second and the third specimens shall be collected at least 48 hours after the prior specimen.

(2) Chickenpox (varicella). Each infected person shall remain in isolation for six days after the first crop of vesicles appears or until the lesions are crusted, whichever comes first. Each susceptible person in a school, child care facility, or family day care home shall be either vaccinated within 24 hours of notification to the secretary or excluded from the school, the child care facility, or the family day care home until 21 days after the onset of the last reported illness in the school, the child care facility, or the family day care home.

(3) Cholera. Enteric precautions shall be followed for the duration of acute symptoms.

(4) Diphtheria. Each infected person shall remain in isolation for 14 days or until two consecutive negative pairs of nose and throat cultures are obtained at least 24 hours apart and not less than 24 hours after discontinuation of antibiotic therapy. Each household contact and all other close contacts shall have nose and throat specimens tested and be monitored for symptoms for seven days from the time of last exposure to the disease. Healthy carriers with diphtheria shall be treated. Each contact who is a food handler or works with children shall be excluded from that occupation until the nose and throat cultures are negative.

(5) Hepatitis A. Each infected person shall be excluded from food handling, patient care, and any occupation involving the care of young children and the elderly until 14 days after the onset of illness.

(6) Meningitis caused by *Haemophilus influenzae*. Each infected person shall remain in respiratory

isolation for 24 hours after initiation of antibiotic therapy.

(7) Meningitis, meningococcal. Each infected person shall remain in respiratory isolation for 24 hours after initiation of antibiotic therapy.

(8) Mumps. Each infected person shall remain in respiratory isolation for five days from the onset of illness. Each susceptible person in a school, child care facility, or family day care home shall be either vaccinated within 24 hours of notification to the secretary or excluded from the school, child care facility, or family day care home until 26 days after the onset of the last reported illness in the school, child care facility, or family day care home.

(9) Pediculosis (headlice). Each student infested with lice shall be excluded from the school, child care facility, or family day care home until treatment with an antiparasitic drug is initiated.

(10) Pertussis (whooping cough). Each infected person shall remain in respiratory isolation for three weeks if untreated, or for five days following initiation of antibiotic therapy. Each susceptible person in a school, child care facility, or family day care home shall be vaccinated within 24 hours of notification to the secretary or shall complete a five-day course of antibiotic therapy. Each susceptible person who does not receive the vaccination shall be excluded from the school, child care facility, or family day care home until 21 days after the onset of the last reported illness in the school, child care facility, or family day care home.

(11) Plague (pneumonic). Each infected person shall remain in respiratory isolation until completion of 48 hours of antibiotic therapy. Each close contact who does not receive chemoprophylaxis shall remain in quarantine for seven days.

(12) Poliomyelitis. Each infected person shall remain in isolation for 10 days from the onset of illness. Enteric precautions shall be followed for six weeks.

(13) Rubella (German measles). Each infected person shall remain in respiratory isolation for seven days after the onset of rash. Each susceptible person in a school, child care facility, or family day care home shall be vaccinated within 24 hours of notification to the secretary or shall be excluded from the school, child care facility, or family day care home until 21 days after the onset of the last reported illness in the school, child care facility, or family day care home.

(14) Rubeola (measles). Each infected person shall remain in respiratory isolation for four days after the onset of rash. Each susceptible person in a school, a child care facility, or a family day care home shall be either vaccinated within 24 hours of notification to the secretary or excluded from the school, child care facility, or family day care home until 21 days after the onset of the last reported illness in the school, child care facility, or family day care home.

(15) Salmonellosis (nontyphoidal). Enteric precautions shall be followed for the duration of acute symptoms. Each infected person with diarrhea shall be excluded from food handling, patient care, and any occupation involving the care of young children and the elderly until no longer symptomatic. Any asymptomatic and convalescent infected person without diarrhea may be excluded from, and may return to, this work by the order of the local health officer or the secretary.

(16) Scabies. Each child or student infected with scabies shall be excluded from a school, child care

facility, or family day care home until treated with an antiparasitic drug.

(17) Shiga toxin-producing *Escherichia coli* (STEC). Enteric precautions shall be followed for the duration of acute symptoms. Each infected person shall be excluded from food handling, patient care, and any occupation involving the care of young children and the elderly until two negative stool cultures are obtained at least 24 hours apart and no sooner than 48 hours following discontinuation of antibiotics. No infected child shall attend a child care facility or family day care home until two negative stool cultures are obtained at least 24 hours apart and no sooner than 48 hours following discontinuation of antibiotics.

(18) Shigellosis. Enteric precautions shall be followed for the duration of acute symptoms. Each infected person shall be excluded from food handling, patient care, and any occupation involving the care of young children and the elderly until two negative stool cultures are obtained at least 24 hours apart and no sooner than 48 hours following discontinuation of antibiotics. No infected child shall attend a child care facility or family day care home until two negative stool cultures are obtained at least 24 hours apart and no sooner than 48 hours following the discontinuation of antibiotics.

(19) Staphylococcal disease. Each infected food handler shall be excluded from that person's occupation until the purulent lesions are healed or until each wound is covered with an impermeable cover, including a finger cot, and a single-use glove is worn over the impermeable cover.

(20) Streptococcal disease, hemolytic, including erysipelas, scarlet fever, and streptococcal sore throat. Each infected person shall remain in isolation for 10 days if untreated or for 24 hours following initiation of antibiotic therapy.

(21) Tinea capitis and corporis (ringworm). Each infected child or student shall be excluded from the school, the child care facility, or the family day care home until treated by a health care provider.

(22) Tuberculosis, active disease. Each infected person shall remain in respiratory isolation until all of the following conditions are met:

(A) Three sputa obtained on consecutive days are negative by microscopic examination.

(B) The person has received standard multidrug antituberculosis therapy for at least two weeks.

(C) The person shows clinical improvement.

(23) Typhoid fever. Enteric precautions shall be followed for the duration of acute symptoms. Each infected person shall be restricted from food handling, patient care, and any occupation involving the care of young children and the elderly until three negative stool cultures, and three negative urine cultures in patients with schistosomiasis, have been obtained. Both the second and the third specimens shall be collected at least 24 hours after the prior specimen. The first specimen shall be collected no sooner than 48 hours following the discontinuation of antibiotics, and not earlier than one month after onset of illness. If any one of these tests is positive, cultures shall be repeated monthly until three consecutive negative cultures are obtained.

(24) Sexually transmitted diseases. Each infected person shall follow isolation or quarantine measures established by the local health officer for persons who are confirmed or suspected of being

infected with a sexually transmitted disease if these persons are recalcitrant to proper treatment.

(Authorized by K.S.A. 65-101 and 65-128; implementing K.S.A. 65-101; effective May 1, 1982; amended May 1, 1986; amended Sept. 5, 1997; amended July 16, 1999; amended July 20, 2007.)

**28-1-12. Release from isolation or quarantine.** All laboratory tests or cultures for release of an individual from isolation or quarantine shall be performed by the laboratory of the state department of health and environment, or by a laboratory approved by the state department of health and environment for this purpose. (Authorized by K.S.A. 65-128, K.S.A. 1981 Supp. 65-101; implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)



# **Sexually Transmitted Diseases**

## **MATERNAL AND CHILD HEALTH GENERAL REGULATIONS**

### **28-4-73. Treatment of eyes of newborn.**

(a) The prophylactic solution approved for instillation into the eyes of newly born infants shall be one of the following:

- (1) One percent (1%) aqueous solution of silver nitrate,
- (2) An ophthalmic ointment containing one percent (1%) tetracycline, or
- (3) An ophthalmic ointment containing five-tenths percent (.5%) erythromycin.

(b) These prophylactic agents shall be distributed in single use containers which bear clearly the name and percentage strength and an expiration date beyond which the product shall not be used.  
(Authorized by K.S.A. 65-153b, 65-153d; effective January 1, 1966; amended E-81-39, Dec. 10, 1980; amended May 1, 1981.)

# **Tuberculosis**

## **MATERNAL AND CHILD HEALTH GENERAL REGULATIONS FOR CATEGORIES OF CHILD CARE**

### **28-4-126. Health of persons 16 years or older in child care facilities.**

(a) (1) Each person caring for children shall be free from physical, mental or emotional handicaps as necessary to protect the health, safety and welfare of the children, and shall be qualified by temperament, emotional maturity, sound judgment, and an understanding of children.

(2) Persons in contact with children shall not be in a state of impaired ability due to the use of alcohol or drugs.

(b) (1) Each person regularly caring for children shall have a health assessment conducted by a licensed physician or by a nurse trained to perform health assessments. The health assessment shall be conducted no earlier than one year before the date of employment or initial application for a license or certificate of registration, or not later than 30 days after the date of employment or initial application.

(2) Each substitute in a day care facility as defined in K.A.R. 28-4-113 or K.S.A. 65-517 shall be exempt from K.A.R. 28-4-126(b)(1).

### **(c) Tuberculin testing.**

(1) Each person living, working or regularly volunteering in the facility shall have a record of a negative tuberculin test or x-ray obtained not more than two years before the employment or initial application, for a license or certificate of registration or not later than 30 days after the date of employment or initial application.

(2) Additional tuberculin testing shall be required if significant exposure to an active case of tuberculosis occurs, or symptoms compatible with tuberculosis develop. Proper treatment or prophylaxis shall be instituted, and results of the follow-up shall be recorded on the person's health record. The Kansas department of health and environment shall be informed of each case described within this paragraph.

(d) Results of the health assessment and tuberculin test shall be recorded on forms supplied by the Kansas department of health and environment and kept on file at the facility. Health assessment records may be transferred to a new place of employment if the transfer occurs within one year of previous employment.

(e) Each resident 16 years or older in a residential facility as defined in K.A.R. 28-4-268 shall meet the requirements in K.A.R. 28-4-126(c) and (d) and K.A.R. 28-4-275(c). (Authorized by and implementing K.S.A. 65-508 and K.S.A. 65-522; effective May 1, 1986; amended Feb. 26, 1990.)